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Challenging the Territorial Imagination:
Territoriality, Diversity, and Canadian State Policies

by

Tim Nieguth ©

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ABSTRACT

This dissertation explores the role of space and territory in the conception and implementation of different state policies on ethnic and national diversity. In particular, it seeks to address two central questions: first, what is the view of state territoriality in the extant literature on state policies towards ethnic and national diversity; and second, what impact does state territoriality have on those policies? In response to the first question, the dissertation argues that the relevant literature operates within a framework of interrelated assumptions I call the "territorial imagination." Within the confines of this framework, state territoriality is treated as a natural, normal, neutral and immutable way of organizing political authority. In contrast, and in response to the second question, this dissertation argues that state territoriality is socially constructed and reproduced, does not exhaust the possibilities of delineating political space, has had uneven implications for different social groups, and has undergone significant changes over the last few centuries. Focussing on one of the assumptions underpinning the "territorial imagination" - the idea that state territoriality is neutral - the dissertation examines the power effects of state territoriality in greater detail. It does so through an empirical analysis of various Canadian state policies towards French Canadians, Aboriginal peoples, and "third force" Canadians, ranging from 1867 to the present. The policies examined fall into three categories: control, neutrality, and recognition approaches.

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Writing a dissertation is a paradoxical enterprise. In many ways, it is (and perhaps must) be an intensely solitary process. At the same time, it critically depends on support and input from many others. On the way to completing my dissertation, I was lucky enough to accumulate a large debt of gratitude to family, faculty, and friends. Without their continued support - intellectual, emotional, and professional - I would not have been able to see this project through. I am all the more grateful for the opportunity to express my heartfelt thanks to those who have helped make it happen. I hasten to point out that any errors, oversights, or mistakes that remain in the dissertation remain not because, but despite the best efforts of others.

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To my parents, Dirk and Elke Nieguth, *sine quibus non*

And to the memory of my sister Heike

> Who hath remember'd me? who hath forgotten?
> Thou hast forgotten, O summer swallow,
> But the world shall end when I forget.
> – Algernon Charles Swinburne, "Itylus"

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1.

INTRODUCTION

In the last two or three decades, it has become commonplace to suggest that the nation-state is rapidly losing importance in a political and economic environment operating on a global scale. In this view, the capacity of nation-states to effectively control political and economic processes within and across their borders is rapidly diminishing. No longer does the nation-state function as a container of society. Instead, we are witnessing a process of de-territorialization. Nation-states, territory, boundaries - fixtures of the Fordist post-war world order - are being replaced by a global space of interconnected social, political and economic networks.

There are, however, good reasons to suspect that this view is insufficiently nuanced to provide a compelling interpretation of current developments. Consider the following three examples: during Germany's 2002 electoral campaign, conservative Chancellor-candidate Edmund Stoiber reiterated demands that the Czech Republic repeal the so-called Benes-decrees. Enacted between 1945 and 1947, these decrees had formed the basis for the post-war expulsion of Germans from Czechoslovakia and their dispossession. Stoiber declared that the Czech Republic's refusal to rescind these decrees raised doubts about its suitability for membership in the European Union.[1] Following the attacks of 11 September 2001, the United States passed a series of acts designed to increase American security. Among other things, these acts significantly changed the meaning of the Canada-US border, transforming it from a relatively open border to a "security first" border subject to heavy monitoring and surveillance.[2] In May 2003, the United States banned the import of Canadian beef after a single case of mad cow disease had been reported in Alberta; the border was reopened to imports of Canadian cattle in 2005.[3]

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[1] Lukas Wallraff, "Wahlkampf gegen die Tschechen," *die tageszeitung*, 21 May 2002 (http://www.taz.de/pt/2002/05/21/a0078.nf/text.name,askyvuJwJ.n,12, accessed 27 November 2005).

These three incidents, among many others, raise significant doubts about the supposedly imminent death of the nation-state. At the very least, they highlight the contradictory nature of contemporary processes affecting its role. Specifically, they point to the paradoxical simultaneity of emerging supra-national governance and the persisting importance of nation-state politics. Stoiber's threat to oppose Czech EU-membership demonstrates the coincidence of emerging supra-nationalism (in the form of EU-enlargement) and the continuing relevance of the nation-state and nationally defined interests. Likewise, the redefinition of the Canada-US border after September 11 and the import ban on Canadian beef raise a number of questions about the nature of North America as a geopolitical and economic region, especially in the context of the North American Free Trade Agreement.

The contradictions inherent in the coexistence of emerging supra-national governance on one hand and nation-state politics on the other are perhaps nowhere more evident than in

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[2] Daniel Drache, *Borders Matter: Homeland Security and the Search for North America* (Halifax: Fernwood, 2004).

[3] CBC News Online, "Timeline of BSE in Canada and the U.S." (http://www.cbc.ca/news/background/madcow/timeline.html, accessed 27 November 2005).

Europe, a continent home not only to a significant number of new nation-states such as Estonia, the Ukraine or Slovenia, but home also to an ongoing experiment in rapid supranational integration: the European Union. The EU has been described as an order of governance *sui generis* - certainly not a nation-state, not truly a federation, but not simply an international organization either. Much social science literature has taken the development of the European Union as evidence that the nation-state, the form of political organization that has become the global norm over the last few centuries and underpins the current system of international relations, has begun to fade away under the pressures of globalization, to be replaced by new forms of political organization. Since one of the hallmarks of the modern state is its definition by and control over clearly marked territories, that development is often described as one of de-territorialization. However, that analysis is questioned by many social scientists who point to the continuing importance of the nation-state in setting political agendas (and, indeed, in driving the process of globalization itself) or perceive ongoing processes of re-territorialization.

Certainly, the skeptics have much to commend their case: even in the context of the European Union, after all, the member-states still set their own policies across the whole range of policy areas. In addition, member-states are free to unilaterally withdraw from the Union if and when they so desire. At the same time, it is becoming increasingly clear that not all decisions by member-states are made independently or free of constraint: formally, the member-states are bound by Union treaties; informally, due to the close integration between them the twenty-five member-states can no longer determine their policies in "splendid isolation" from the rest of the Union (if they ever could to begin with). Moreover, a considerable number of laws and directives applying in EU-member states are now enacted by Brussels and Strasbourg rather than the individual states.

Overall, it is fair to say that, within the EU, nation-states have to a certain extent been supplanted by supra-national institutions of governance. Nonetheless, nation-states still play a central role in the political process. Consequently, terms such as "de-territorialization" are misleading: as individuals seeking entry to and citizenship in any of the EU-member states can attest, territory is still a fundamental consideration, since EU-member states continue to monitor and regiment population movements across their borders and exercise control over access to citizenship and state programmes.

To speak of de-territorialization is also potentially misleading in a second, equally important sense: whatever the relative loss of power and autonomy experienced by the nation-state, this does not necessarily denote a wholesale move away from territoriality as an organizing principle of social and political processes. Rather, at least in part it represents a move towards a *different* form of territoriality, that is, one that is not defined in terms of the nation-state. Thus, the EU as a whole may not correspond to the traditional model of the nation-state, but it is still defined by territoriality - its authority is bounded by the territories of its member-states. The EU exercises power over those territories, and its reach is limited by their boundaries. The widespread notion of "Fortress Europe," while not a formal policy model, perhaps best conveys the idea of the EU as a territorial entity with clearly demarcated borders. In other words, to simply identify current transformations of governance as de-territorialization is to underestimate their complexity, and to reduce the idea of territoriality to one specific form of territoriality - that of the twentieth-century nation-state.

1.1 The argument: state territoriality and diversity

The reductive understanding of territoriality outlined above reflects a more general tendency within the social sciences - with the exception of geography - to neglect the spatial dimension of the social and the complexities of space itself. Space is often taken for granted, perceived as the stage on which social relations play out. To stay with the stage metaphor, space is not seen to have an impact on the content and development of the play itself. This inattention is due mostly to the fact that a particular form of territoriality - a form I will refer to as state territoriality[4] - has become deeply entrenched in contemporary understandings of the political. State territoriality has come to be viewed as a "natural" way of organizing political (and social) processes, to the exclusion of other organizing principles.

The purpose of this dissertation is to address the relative analytical neglect of state territoriality. It seeks, in essence, to answer two questions: first, how does the existing literature on state policies towards ethnic and national diversity portray state territoriality? Second, what is the significance of state territoriality for the conception of these policies? In response to the first question, I will argue that the literature on responses to ethnic and national diversity reflects the general trend in the social sciences to neglect space and take modern forms of territoriality as a given. I will suggest that this neglect is due to the "territorial imagination," a deeply entrenched set of assumptions about state territoriality that perceives it as natural, normal, neutral and immutable.

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[4] The concept of state territoriality will be defined in greater detail in Chapter 3, but in a nutshell, it is a concept that refers to the articulation of political authority, conceived in terms of sovereignty, with territorially bounded notions of political space.

By way of contrast, this dissertation will contend that state territoriality is neither natural, normal, immutable or neutral. In consequence, and in response to the second question, it will argue that state territoriality has had a significant impact on state policies dealing with ethnic and national diversity. In particular, it will point to the role of state territoriality as a mechanism of containment: state territoriality imposes limitations on the expression of various forms of ethnic and national diversity in society. Often, the expressions of ethnicity and national identity being contained are those of minority groups. However, containment need not work exclusively against minority groups. It may, in fact, also limit the dominance of majority groups. In essence, state territoriality can contribute to three different forms of containment: the confinement of all expressions of ethnic and national identity to the private sphere; the suppression of minority claims and identities; and the limited accommodation of majority and minority claims in the public sphere. Roughly, these movements of containment correspond to three broad categories of state policies on ethnic and national diversity: neutrality, control, and recognition.

In order to support this argument, the dissertation will examine a number of pertinent Canadian state policies since Confederation. Before outlining the methodology and structure used in the remainder of the dissertation, this chapter will briefly discuss the rationale behind the choice and delineation of the subject of research. Specifically, I will look more closely at the basic orientation of the dissertation's research project and its contributions to the political science literature, as well as its reasons for examining territoriality, for exploring its nexus with ethnicity and nationalism, and for doing so within the Canadian setting.

1.2 Theoretical and empirical contributions to the literature

In answering the two questions identified above, the dissertation combines theoretical and empirical concerns. On the theoretical level, it contributes to the political science literature in a number of ways: first, it emphasizes the importance of ethnicity and nationalism in the study of contemporary political regimes. While the social sciences overall have become increasingly attentive to ethnicity and nationalism over the last two or three decades, political science as a discipline remains reluctant to engage with these matters - in particular, few political scientists engage in sustained studies of ethnicity, ethnic group identity, or ethnic inequality.[5]

Second, political science has traditionally neglected questions of space and territoriality. While a number of recent contributions in the field of International Relations are quite critical of this neglect, this critique has yet to permeate the field of International Relations as a whole or, indeed, other fields within political science. The pre-occupation with phenomena such as globalization, regionalism, or de-territorialization in much recent political science analysis provides an opportune moment for challenging this neglect, and for initiating a critical engagement with matters of space and territoriality from a political science perspective.

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[5] Rupert Taylor, "Political Science encounters 'race' and 'ethnicity'," *Ethnic and Racial Studies* 19:4 (1996), 884-895. In a Canadian context, see V. Seymour Wilson, "The Tapestry Vision of Canadian Multiculturalism," *Canadian Journal of Political Science* 26:4 (1993), 645-669; and Howard Palmer, "History and Present State of Ethnic Studies in Canada," in Wsevolod Isajiw, ed., *Identities: The Impact of Ethnicity on Canadian Society*, Canadian Ethnic Studies Association 5 (Toronto: Peter Martin Associates, 1977), 167-183.

Third, this dissertation aims at contributing to this initiation by way of developing the concept of the "territorial imagination" and subjecting the assumptions that underpin it to sustained critique. This critique will be developed from the vantage point of a theory of state territoriality that draws on political geography, neo-institutionalism, and discourse theory. It will further be applied to the specific context of state policies on ethnic and national diversity. In a sense, then, this dissertation aims at importing emphases on space and ethnicity into political science.

The perspective on state territoriality that informs this dissertation is developed through encounters both with these theoretical influences, and with empirical literature that challenges the view of state territoriality as natural, normal, neutral and immutable (for example, literature on the emergence of the modern state system or the changing norms of territorial acquisition). As such, the dissertation's theory of state territoriality is informed by empirical considerations. This theory is in turn applied to a number of empirical cases drawn from Canadian post-Confederation history. These cases reflect different state policies on ethnic and national diversity. Examining these cases illustrates the implications of state territoriality for state policies on ethnic and national diversity. By extension, it also underlines the contribution of state territoriality to the way these cases have historically unfolded.

1.3 Why territoriality?

Until quite recently, the spatial dimension of society and politics has been largely neglected in most social sciences.[6] Even in geography, the fortunes of space have been subject to considerable change during the post-WWII era:[7] during the 1960s, and under the influence of positivism, geography conceived of itself as a "science of the spatial," attempting to identify spatial laws which governed spatial phenomena. Spatial phenomena were, in other words, explained in terms of spatial causes. In consequence, space was studied as a category apart and independent from social processes. This position came under sustained attack in the 1970s. Critics of a positivist science of space argued that space could not be understood as an independent variable separate from social processes - a critique that in effect left geography bereft of a unique subject matter. This perspective has, in turn, been critiqued for underestimating the significance of spatial matters, such as local variation.

While conceptions of space and its importance underwent significant changes in geography, spatial categories such as place, location or territory have been all but marginalized in the other social sciences. This marginalization has a longstanding history, as "neither Marx, Durkheim nor Weber paid more than passing attention to space."[8]

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[6] Thus, in his influential study of territory, Jean Gottmann was driven to remark that "[a]mazingly little has been published about the concept of territory [...]"; Jean Gottmann, *The Significance of Territory* (Charlottesville: The University Press of Virginia, 1973), ix.

[7] For the following, see Doreen Massey's summary in her essay "New Directions in Space," in Derek Gregory and John Urry, eds., *Social Relations and Spatial Structures* (New York: St. Martin's Press, 1985), 9-19.

[8] Andrew Sayer, "The Difference that Space Makes," in Gregory/ Urry, eds., *Social Relations and Spatial Structures*, 49-66, at 51. Interestingly, Sayer suggests "that while space makes a difference, these and other social theorists have been largely justified in giving it so little attention in their abstract theoretical work, although the position with regard to concrete research is quite different" (*ibid.*).

According to Giddens, "most forms of social theory have failed to take seriously enough *not only the temporality of social conduct but also its spatial attributes*."[9] More recently, Newman has taken political science to task for failing to engage with current work in political geography, and Beauregard has noted that spatial analysis is largely absent from studies of public policy.[10]

The point to be made here is not, of course, that the social sciences (and political science in particular) have been unaware of the territorial dimension of society and politics. Indeed, the historical recency of the territorial state or the spatial elements of contemporary processes such as globalization and fragmentation need no pointing out. Nonetheless, social scientists have tended to disregard territory on a theoretical level. As Uday Singh Mehta puts it, the

> issue [...] is not that territory, as a fact that underlies political arrangements, is ignored. Indeed, it is obvious that we would not recognize either inter- or intrastate political arrangements and deliberations without explicit or implicit reference to this fact. Rather the problem, at one level, is that the ubiquity of its significance is belied by the lack of theoretical attention paid to it.[11]

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[9] Anthony Giddens, *The Giddens Reader*, ed. Philip Cassell (Stanford, CA: Stanford University Press, 1993), 176; emphasis in the original.

[10] See David Newman's essay in a special issue of the journal *Political Geography* on "cross-boundary discourse" between political science and political geography: "Comments on Daniel Elazar, political geography and political science," *Political Geography* 18:8 (1999), 905-911; and Robert A. Beauregard, "The Unavoidable Presence of Space: Initiating Change in South Central Los Angeles," *American Behavioral Scientist* 40:3 (1997), 365-374.

[11] Uday Singh Mehta, *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* (Chicago: University of Chicago Press, 1999), 119.

In a sense, then, a general awareness of territory's significance to social processes has not been accompanied by a sustained theorization of territory. As Jacobson has argued in an influential essay, the "association of nations and states with fixed, clearly demarcated territories has been presumed to be so 'given' or even natural that until recently, scholars left the issue of territoriality as implicit, a constant like the weather that did not need to be discussed."[12] Along broadly similar lines, Elazar has lamented the fact that modern political science has, for the most part, taken space for granted; Murphy has pointed to the inclination of International Relations literature to treat territory as a given;[13] and Williams has remarked on a tendency within the literature on political regionalism to view territory as a passive element or container.[14]

The literature on nationalism has been no exception regarding the overall neglect of space. As Kaiser suggests, "the relationship between geography and nationalism has largely been ignored, at least until the 1980s. Nongeographers have tended to discount place, homeland, territory, and territoriality in their research into the nature of nations and nationalism."[15] In a similar vein, Penrose contends that a "general *acceptance* of the significance of territory to nationalism has not been balanced by an *understanding* of just what it is that makes territory so significant to this ideology."[16] This is perhaps somewhat surprising, given the centrality of the "ancestral homeland" to nationalist rhetoric, the symbolic significance attached to specific places in the nationalist imagination, or the role assigned to the particularities of physical space in shaping specific "national characters" in some versions of nationalist ideology. However, with a few notable exceptions,[17] territory did not attract much attention within nationalism studies until the end of the 1990s.

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[12] David Jacobson, "New Frontiers: Territory, Social Spaces, and the State," *Sociological Forum* 12:1 (1997), 121-133, at 121. See also Forsberg's observation that "although territoriality is often mentioned as a defining element of the international system it is usually just mentioned, not theorized"; Tuomas Forsberg, "Beyond Sovereignty, Within Territoriality: Mapping the Space of Late-Modern (Geo)Politics," *Cooperation and Conflict* 31:4 (1996), 355-386, at 356.

[13] See their respective contributions to the aforementioned special issue of *Political Geography*: Daniel J. Elazar, "Political science, geography, and the spatial dimension of politics," *Political Geography* 18:8 (1999), 875-886; and Alexander B. Murphy, "'Living together separately'. Thoughts on the relationship between political science and political geography," *Political Geography* 18:8 (1999), 887-894.

[14] Colin Williams, "Territory, Identity and Language," in Michael Keating and John Loughlin, eds., *The Political Economy of Regionalism* (London/Portland, OR: Frank Cass, 1997), 112-138.

Scholars have offered a variety of explanations for the relative neglect of space and associated concepts. Thus, Soja points to the marked preoccupation with time in the social sciences which, in his view, has prevented a similar critical engagement with space.[18] Agnew traces the lack of attention to place within what he calls "orthodox social science" to a tendency to equate place with community, coupled with an evolutionary perspective that portrayed the shift from community to society as a "natural, lawful, and universal" process

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[15] Robert J. Kaiser, "Geography," in *Encyclopedia of Nationalism*, volume 1: *Fundamental Themes* (San Diego etc.: Academic Press, 2001), 315-333, at 316.

[16] Jan Penrose, "Nations, states and homelands: territory and territoriality in nationalist thought," *Nations and Nationalism* 8:3 (2002), 277-297, at 277; emphases in the original.

[17] See, *inter alia*, Colin Williams and Anthony Smith, "The national construction of social space," *Progress in Human Geography* 7:4 (1983), 502-518.

[18] Edward Soja, *Postmodern Geographies: The Reassertion of Space in Critical Social Theory* (London/New York: Verso, 1989), chapter 1.

(thus rendering community, and by extension place, obsolete); the growth of nationalism as a "place-transcending ideology" and the related naturalization of the nation-state within the social sciences, both of which took place during the nineteenth century;[19] and the Cold War division of the globe into three worlds, where the Western societies of the First World were seen as "the ones most amenable to nomothetic social science and consequently the ones in which reference to place is particularly inappropriate."[20]

Regarding the literature on nationalism, Kaiser suggests that territorial aspects of nations and nationalisms have been neglected for several reasons, such as a naturalization of the territorial state within political geography, a post-WWII scepticism towards political geography due to the utilization of *Lebensraum* concepts by the Nazis, and the dominance of modernization theory after the Second World War, a theoretical orientation that analytically privileged socio-economic factors over place in examining identities.[21]

Since the 1970s, however, there has been a growing interest within most social sciences in matters of space - a development that has sometimes been labelled a "spatial turn." According to Smith and Katz, "spatial metaphors have become a predominant means by which social life is understood."[22] As Garber notes, metaphors such as "spaces of resistance," "discursive space," landscape, margin, location, standpoint or intersection suffuse recent critical work.[23] Writing in the late 1980s, Soja discerned an increased interest in space from a critical and postmodern perspective.[24] Foucault, in his 1976 interview with the editors of the Marxist geography journal *Hérodote*, acknowledged the importance of spatial considerations to his own research project as well as his neglect of spatial categories:

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[19] John Agnew, "The devaluation of place in social science," in John Agnew and James Duncan, eds., *The Power of Place: Bringing together geographical and sociological imaginations* (Boston: Unwin Hyman, 1989), 9-29, at 16.

[20] Agnew, "The devaluation of place," 21.

[21] Robert J. Kaiser, "Geography," 316-317.

[22] Quoted in Judith A. Garber, "The city as a heroic public sphere," in Engin F. Isin, ed., *Democracy, Citizenship and the Global City* (London/New York: Routledge, 2000), 257-274, at 261.

> Geography acted as the support, the condition of possibility for the passage between a series of factors I tried to relate. Where geography itself was concerned, I either left the question hanging or established a series of arbitrary connections. The longer I continue, the more it seems to me that the formation of discourses and the genealogy of knowledge need to be analysed, not in terms of types of consciousness, modes of perception and forms of ideology, but in terms of tactics and strategies of power. Tactics and strategies deployed through implantations, distributions, demarcations, control of territories and organisations of domains which could well make up a sort of geopolitics where my preoccupation would link up with your methods. [...] Geography must indeed necessarily lie at the heart of my concerns.[25]

The increased attention to space within the social sciences can be attributed to a number of factors. A list of such factors would, without claiming to be exhaustive, include (1) phenomena such as globalization, fragmentation, technological change, and their contradictory implications for the spatial ordering of social, economic and political processes; (2) the emergence of post-structuralism and deconstructionism, both of which led to critical re-examinations of the construction of social and political space, and of the implications of social and political space for the exercise and distribution of power; and (3) Giddensian structuration theory and its emphasis on particularities of time and space.[26]

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[23] Garber, "The city as a heroic public sphere," 260-261.

[24] Edward Soja, *Postmodern Geographies*.

[25] Michel Foucault, "Questions on Geography," in his *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, ed. Colin Gordon (New York: Pantheon Books, 1980), 63-77, at 77.

Whether the growing interest in spatial matters has ushered in a fundamentally new mode of analysis in nationalism studies and the social sciences in general or has remained largely at the metaphorical level is, of course, open to debate. To a large extent, space after the "spatial turn" is a metaphorical category; spatial analyses examine space in a symbolic and representational rather than a concrete material sense. One reason to suggest that the "spatial turn" in the social sciences may not have resulted in increased attention to actual material spaces is the continued neglect of territory. Territory remains a ubiquitous but largely unexamined category. Thus, much of the existing literature on state policies towards ethnic and national diversity has been limited to variations on a territorial theme - that is, it has focussed on attempts to either maintain or achieve congruence between ethnic and national populations on one hand, and territorial boundaries on the other. This congruence can be achieved by constructing concepts of the nation and nationhood in a way that coincides more closely with existing state boundaries, by adjusting settlement patterns, with often inhumane consequences such as ethnic cleansing, or by adjusting territorial boundaries through mechanisms such as federalism, autonomy within an existing state, and the creation of new "national" states through partition and separation. The institutional accommodation of nationalism is thus framed in strictly territorial terms, envisioning national self-determination as government of a specific territory.[27]

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[26] See, *inter alia*, Edward Soja, "The Spatiality of Social Life: Towards a Transformative Retheorisation," in Gregory/ Urry, eds., *Social Relations and Spatial Structures*, 90-127; Edward Soja, *Postmodern Geographies*, especially chapters 2 and 6; and Jouni Häkli, "Discourse in the production of political space: decolonizing the symbolism of provinces in Finland," *Political Geography* 17:3 (1998), 331-363.

With some important exceptions, this focus on territorial congruence characterizes not just political science as a whole, but also Canadian political science in particular. This is, of course, not to say that solutions aiming at territorial congruence are the only ones which have been advanced or discussed in the relevant literature over the last few decades. The continuing debates over issues such as minority rights, multilingualism and multiculturalism certainly suggest otherwise. None of these "alternative" responses which have occupied a central place in recent debates represent attempts at establishing territorial self-government for ethnic or national groups in any sense comparable to federalism, regional autonomy or secession. At the same time, most of these alternative responses do not question the conceptual limitations set by state territoriality. They are concerned with the exercise, content and subject of political authority, but do not scrutinize or challenge the fact that political authority is based on and bounded by territory. In short, they operate firmly within the confines of the "territorial imagination." Perhaps more to the point, they do not challenge the alignment of sovereignty (and the sovereign) with territory in the notion of territorial sovereignty that has provided the foundation of the modern system of states.

The failure of political science to challenge state territoriality undoubtedly reflects, but also reinforces actual developments in the political realm. Proponents of ethnic and national movements commonly frame demands for self-government in the language of territory (based on the idea of an ancient "homeland"). Likewise, attempts at accommodating these demands have usually operated within a territorial framework. However, there are two central problems with the dominance of this territorial framework. First, it has caused some observers to portray the relationship between states on one hand and ethnic or national autonomy movements on the other as inherently conflictual. Precisely because claims for self-government are typically phrased in the language of territory, they are seen as at least potentially challenging the territorial integrity of existing states and, therefore, as inimical to the existing order of states. Lea Brilmayer summarizes what she describes as the "standard account" of the relationship between the existing state order and demands for national self-determination as follows:

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[27] See, *inter alia*, Simon Caney, "Self-government and secession: the case of nations," *Journal of Political Philosophy* 5:4 (1997), 351-372; Daniel Donnelly, "States and substates in a free world: a proposed general theory of national self-determination," *Nationalism and Ethnic Politics* 2:2 (1996), 286-311; Bruno Schoch, "Selbstbestimmung und Sezession: Herausforderung für die Staatengemeinschaft," *Blätter für deutsche und internationale Politik* 39:11 (1994), 1355-1367.

> [...] on a rhetorical level few deny the principle's [meaning the principle of self-determination] appeal. Unfortunately, it seems directly contrary to another, equally venerable, principle of international law, which upholds the territorial integrity of existing states. In secessionist struggles, it seems, one principle or the other must give way.[28]

Second, and at least as importantly, territorial accommodations of self-government claims cannot offer a comprehensive solution. Given that ethnic, national, linguistic and cultural groups do not occupy sharply delineated and mutually exclusive geographical spaces, the territorial accommodation of self-government claims raised by those groups will more than likely "create" minorities within the new state or sub-state. Territorial self-government by itself is, therefore, prone to instability, as "new" minorities can utilize the language of territorial self-government as well and thereby undermine the legitimacy of the (sub-)state.[29]

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[28] Lea Brilmayer, "Secession and Self-Determination: A Territorial Interpretation," *Yale Journal of International Law* 16:1 (1991), 177-202, at 177-178.

The point here is not to deny, on a general level, the legitimacy of aspirations for territorial self-government on the part of ethnic, linguistic, cultural or national groups, or to assert that states have, *prima facie*, a legitimate claim to the territory they control. Nor is the point to suggest that state claims to territory automatically trump the territorial claims made by national or ethnic groups. Rather, the above observations are meant to draw attention to and challenge fundamental assumptions about the alignment of political authority with territory, assumptions that are shared by existing states and groups seeking territorial self-government alike.

1.4 Why ethnic and national diversity?

This dissertation examines the implications of state territoriality for state policies on ethnic and national diversity. In doing so, it proceeds from two assumptions about ethnic and national groups: the first assumption is that, while ethnicity and national identity closely intersect, they are distinct social categories. Hence, the dissertation uses the phrase "ethnic and national diversity" throughout when referring to both phenomena. The second assumption is that both ethnic and national groups are not natural givens, but social constructs.

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[29] On the problems associated with territorial approaches to accommodating national self-government claims see, *inter alia*, Donald Horowitz, "Self-determination: politics, philosophy, and law," *Nomos* 39 (1997), 421-463; Vernon Bogdanor, "Overcoming the twentieth century: democracy and nationalism in Central and Eastern Europe," *Political Quarterly* 66:1 (1995), 84-97; Radha Kumar, "The Troubled History of Partition," *Foreign Affairs* 76:1 (1997), 22-34.

To elaborate on the second point: ethnicity is sometimes seen as a quasi-natural form of social organization. In this primordial view, ethnic groups are clearly delineated, internally homogeneous, and unproblematic pre-social "givens." This view is undermined initially by the observation that ethnic groups have been delineated in a number of different and often contradictory ways. Thus, ethnic groups have variously been defined in terms of culture, religion, territorial origin, or language. In addition, these criteria articulate with each other - as well as with other facets of social reality, such as class - in various combinations. This suggests not only that the meaning of ethnicity is fluid, but that particular ethnic boundaries are the product of dynamic social construction and maintenance processes. In consequence, ethnic groups are neither clearly bounded nor internally homogeneous.

The fluidity of ethnic groups is further accentuated by a range of issues that contribute to the multiplicity of individual identity. One such issue that has attracted considerable attention in recent years is that of hybridity, that is, the fact that an individual may possess multiple ethnic and national origins and identifications. Hybridity further undermines the idea of clearly distinguishable ethnic and national communities and challenges approaches to diversity which are predicated on that idea. The same is true of migration and the multiple forms of identity it may engender.

Nations have similarly been defined in a variety of overlapping and contradictory ways. Consequently, the "nation" has proven to be a rather elusive concept. According to

Max Weber, if "the concept of 'nation' can in any way be defined unambiguously, it certainly cannot be stated in terms of empirical qualities common to those who count as members of the nation."[30] If one accepts Rogers Brubaker's contention that the nation should be understood as a category of practice rather than a category of analysis,[31] the nation's elusiveness comes as no surprise. In fact, it is to be expected that nations will not only be constructed on the basis of distinct principles such as ancestry, culture, race, religion, language, or territory, but that the principles used to define particular nations will also be subject to ongoing and intense contestation.

In this context, it should be noted that the common distinction between "ethnic" and "civic" concepts of the nation is more detrimental than helpful.[32] Much of the literature on nationalism describes ethnic nations as those nations that define membership on the basis of (imagined) shared ancestry and culture. Civic nations, on the other hand, assign membership in the nation based on residence in a given territory and adherence to a common framework of political values and institutions. This binary distinction is analytically detrimental because it occludes the complex and often contradictory processes that underpin the construction and maintenance of nations. These processes not only combine some or all of the principles mentioned above, they do so in constellations that vary dynamically across time. Moreover, at any given point in time, definitions of the nation will not only be contested, they may also be applied differentially to different population groups.

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[30] Max Weber, "The Nation," in John Hutchinson and Anthony Smith, eds., *Nationalism* (Oxford/New York: Oxford University Press, 1994), 21-25, at 21-22.

[31] Brubaker, *Nationalism reframed: Nationhood and the national question in the New Europe* (Cambridge: Cambridge University Press, 1996), 15.

[32] For critical examinations of the ethnic/ civic dichotomy see, *inter alia*, Anthony Smith, *National Identity* (Harmondsworth: Penguin, 1991); Bernard Yack, "The myth of the civic nation," *Critical Review* 10:2 (1996), 193-211; Tim Nieguth, "Beyond dichotomy: concepts of the nation and the distribution of membership," *Nations and Nationalism* 5:2 (1999), 155-173; David Brown, "Are there good and bad nationalisms?" *Nations and Nationalism* 5:2 (1999), 281-302; André Lecours, "Ethnic and Civic Nationalism: Towards a New Dimension," *Space and Polity* 4:2 (2000), 153-165; Fredrika Björklund, "The East European 'ethnic nation' - Myth or reality?" *European Journal of Political Research* 45:1 (2006), 93-121.

In addition, if used as a scheme of classification rather than as a distinction between Weberian ideal types, the ethnic/ civic dichotomy is detrimental because it implies that existing nations can be neatly divided into two entirely dissimilar categories that obey distinct organizing principles. Often, these two categories are discussed in terms that are normatively charged: ethnic nations are seen as exclusive, illiberal and undemocratic, while civic nations are considered inclusive, liberal and democratic. In short, the latter are held out as normatively defensible and even desirable, while the former are seen as unacceptable. The point to be made here is not that definitions of the nation that exclude groups or individuals on the basis of ascriptive criteria are unproblematic; clearly, they are not. Rather, the point is that the ethnic/ civic dichotomy impedes analysis of the power relations and the mechanisms of exclusion and inclusion that are at work in delineating national boundaries and defining national membership spaces in all nations.

The observations made in the preceding paragraphs suggest that attempts at outlining a single definition of the nation will have to operate at a level of abstraction that casts doubt on the heuristic utility of that definition. Alternatively, they can operate at a lower level of abstraction, and run the risk of excluding a range of groups that are typically considered nations (or lay claim to the status of nationhood). Neither of these options is particularly attractive from an analytical standpoint. By way of a third option, it is possible to identify a number of elements which underlie the concept of the nation if one shifts the focus away from distinctions between ethnic from civic nations, or from attempts at devising a definition of the nation on the basis of a discrete, uniform set of characteristics. Attempts at defining "the nation" will benefit from asking, not what criteria mark specific communities as national, but what type of community nations represent. In this context, Liah Greenfeld has argued that

> [t]he specificity of nationalism [...] derives from the fact that nationalism locates the source of individual identity within a "people," which is seen as the bearer of sovereignty, the central object of loyalty, and the basis of collective solidarity.[33]

Along similar lines, Benedict Anderson suggests that nations are imagined as communities, and that those national communities are perceived as limited and sovereign.[34] The emphasis on the community-aspect of nations is also evident in Max Weber's classic description of the nation as a concept which implies "that one may exact from certain groups of men [*sic*] a specific sentiment of solidarity in the face of other groups."[35]

Regardless of how one defines national or ethnic boundaries, conflicts between different ethnic and national groups as well as struggles for the accommodation of national self-determination and ethnic diversity have been a crucial feature of many societies. At the beginning of the twenty-first century, Quebec nationalism and demands by many Aboriginal peoples for recognition of their inherent right to self-government not only pose fundamental challenges to the current structure of the Canadian state, but also problematize the nature of Canadian society and its future development. Therefore, it comes as no surprise that issues of ethnic diversity, nationalism and nationhood have attracted much attention among Canadian social scientists and philosophers.

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[33] Liah Greenfeld, *Nationalism*, p. 3.

[34] Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, second edition (London: Verso, 1991), pp.15-16.

[35] Max Weber, "The Nation," p. 22.

The challenge of ethnic diversity and internal nationalisms is, of course, not a peculiarly Canadian phenomenon. Over the last two decades, and especially since the end of the Cold War, these issues have attracted increasing attention among social scientists around the globe. While some observers maintain that nationalism will ultimately lose significance as a social force and fade from the political scene,[36] it is more common within much of the contemporary social science literature on nationalism to make reference to the resurgence, revival or reinvigoration of nationalism at the end of the twentieth century. To cite one example among many, Liah Greenfeld, in her influential study of the development of ideas of the nation and of nationalism in a number of European countries and the United States, states that

> [t]oday, with nationalism reinvigorated and wreaking havoc in parts of the globe where it long since has been considered a phenomenon of the past, I do not feel the need to justify my decision to write a book about it. The importance of nationalism in our world has been proven to us again, and it is

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[36] Eric Hobsbawm, *Nations and Nationalism since 1780: Programme, Myth, Reality*, second edition (Cambridge: Cambridge University Press, 1992).

imperative that we make a new effort to understand it.[37]

Similarly, Rogers Brubaker links an increase in academic studies of nationalism to the resurgence of nationalism in Eastern Europe and other areas of the globe.[38] This resurgence eroded the traditional Marxist and liberal conviction that nationalism represented only a transitory stage in history and would disappear sooner rather than later. As David McCrone notes, by "the middle of the twentieth century much of social and political science had confined it [nationalism] to the dustbin of history. Nationalism was 'over'."[39] By contrast, at the beginning of the twenty-first century it seems unlikely that nationalism as a central factor in shaping social and political developments will fade from the scene in the near future.

The increase in scholarly literature on ethnic diversity and nationalism notwithstanding, the assumption that ethnicity or nationalism has experienced a wholesale global revival in the last decades of the twentieth century is not without problems. First, on an empirical level, it is not clear that ethnicity and nationalism did indeed lose importance in all societal contexts after and, at least in part, as a consequence of World War II. The case of Quebec nationalism is instructive here. Quebec nationalism has arguably posed an increasingly difficult challenge to the integrity of the Canadian federal state since the Quiet

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[37] Liah Greenfeld, *Nationalism: Five Roads to Modernity* (Cambridge, MA: Harvard University Press, 1992), vii.

[38] Rogers Brubaker, "Myths and misconceptions in the study of nationalism," in John A. Hall, ed., *The State of the Nation: Ernest Gellner and the Theory of Nationalism* (Cambridge: Cambridge University Press, 1998), 272-306, at 272.

[39] David McCrone, *The Sociology of Nationalism*, (London: Routledge, 1998), 1.

Revolution in the 1960s. At the same time, it is not a new phenomenon: French Canadian and francophone nationalisms have been a crucial feature of Canadian social and political reality since before Confederation. While these nationalisms have changed considerably in terms of their social basis, objectives, political demands, conceptions of the nation and implications for federal-provincial relations in Canada, it is hardly accurate to claim that they subsided in the post-war era and began to regain importance only in the last couple of decades. Thus, in examining the role of ethnicity and nationalism, it is necessary to take into account the socio-historical contingencies of particular societies; nationalism is not a homogeneous phenomenon, and its significance at any given point in time may vary widely between different societies.

Second, on a conceptual level, it is debatable whether the waxing or waning importance of ethnicity and nationalism can indeed be measured in as straightforward a way as the assertion that is has recently regained significance would seem to imply. The ability to measure either of these phenomena depends to no small degree on how they are defined. It is certainly possible, for example, to assess the importance of nationalism understood as a social and political movement by measuring the electoral success of nationalist parties or the membership of and resources available to nationalist movements. If one defines nationalism as sentiment, it is possible to measure popular attitudes to issues such as immigration, cultural diversity or citizenship. However, it is by no means clear that nationalism can be measured in a similar fashion if it is defined in ideological or discursive terms. As Rogers Brubaker has noted in this context,

> [n]ationalism is not a 'force' to be measured as resurgent or receding. It is a heterogeneous set of 'nation'-oriented idioms, practices, and possibilities that are continuously available or 'endemic' in modern cultural and political life. 'Nation' is so central, and protean, a category of modern political and cultural thought, discourse, and practice that it is hard indeed to imagine a world without nationalism. But precisely because nationalism is so protean and polymorphous, it makes little sense to ask how strong nationalism is, or whether it is receding or advancing.[40]

Finally, it is worth mentioning that the 1980s and 1990s have not been the first decades to diagnose a resurgence of nationalism. In 1966, Barbara Ward wrote:

> East or West, it makes no difference. What we thought was no longer the strongest force in the world is making a serious comeback. It seems to be overcoming what we might call bourgeois supranationalism in the West and Communist internationalism in the East.[41]

While these observations are not intended to contest the notion that some forms and manifestations of ethnicity and nationalism may indeed have witnessed a revival in many specific societies, they nonetheless suggest that it is necessary to approach the "resurgence" of ethnicity and nationalism in a differentiated and context-sensitive manner. Perhaps more importantly, they also testify to the crucial role that nationalism and ethnicity in their various guises have played and continue to play in a large number of societies.

Given the significance of ethnicity and nationalism for the organization of contemporary societies, it is not surprising that they have received substantial (and, as mentioned before, increasing) attention within a whole range of social science disciplines, including political science. This increase is somewhat uneven; while the relative silence of political scientists on issues of race and ethnicity has been commented on by a number of authors, political science as a discipline has engaged more vigorously with issues of nationalism. The significance of nationalism and, in particular, national self-determination for political science can be attributed to a number of factors. First, the pervasiveness of national ideas and concepts remarked on by Rogers Brubaker means that political discourse will often operate – whether explicitly or implicitly – within a conceptual framework provided by ideas of the nation and nationalism. Second, and on a related note, ideas of the nation play a central role in defining legitimate political communities: the nation is often seen as the "natural," legitimate or desirable basis for political authority. As Craig Calhoun suggests, "[n]ationalism has become the preeminent discursive form for modern claims to political autonomy and self-determination."[42] Third, because they are utilized to define political communities, ideas of the nation and constructions of national boundaries determine to a large degree who is granted access to political and societal goods.

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[40] Brubaker, *Nationalism reframed*, 10.

[41] Barbara Ward, *Nationalism and Ideology* (New York: Norton, 1966), 14.

Fourth, the ubiquity and perceived legitimacy of ideas of the nation result in frequent invocations of nationalism and/or claims to national status by different social groups in order to justify or challenge political projects. Fifth, the state is arguably still the dominant form of political organization in the early twenty-first century global order. However, demands for national self-determination often conflict with the continued integrity of existing states. Sixth, given the political consequences of nationalism and national status, claims to national self-determination and even to national status by different social groups are themselves politically contested notions. As Andrew Heywood put it, because "the assertion of nationhood often carries with it significant political demands, the definition of 'nation' tends to be fiercely contested. Many of the most enduring political conflicts turn on whether a particular group is, or should be regarded as, a nation."[43] Seventh, contested definitions of the nation often reflect and reinforce the unequal distribution of political power. To quote Lewis Carroll's *Alice in Wonderland*:

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[42] Craig Calhoun, "Nationalism and Ethnicity," *Annual Review of Sociology* 19 (1993), 211-239, at 213.

> 'When *I* use a word', Humpty Dumpty said, in a rather scornful tone, 'it means just what I choose it to mean - neither more nor less.' 'The question is', said Alice, 'whether you can make words mean so many different things.' 'The question is', said Humpty Dumpty, 'which is to be master - that's all.'[44]

Many of the reasons which underline the importance of nationalism to political science also highlight the central place ethnicity deserves to occupy within the discipline.

Given the extent of social science literature on various aspects of ethnicity, ethnic diversity and nationalism, in light of the fact that this literature continues to grow at an impressive rate, and considering the range of diverging approaches which characterize it, it would be a futile enterprise to try to identify an overarching set of concerns which unify the field of ethnic and nationalism studies. It is, however, possible for purely analytical purposes to roughly delineate three "streams" within this literature, each of which revolves around a specific set of concerns. The first of these streams, which I call the "grand theory stream," is represented by Ernest Gellner, Anthony Smith, Eric Hobsbawm and Benedict Anderson, among others. It mainly concerns itself with the construction of theories of ethnicity and nationalism – that is, explanations of its origins, historical development, and political usages.[45]

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[43] Andrew Heywood, *Political Ideas and Concepts: An Introduction* (London: Macmillan, 1994), 58.

[44] Lewis Carroll, *The Complete Works of Lewis Carroll* (Harmondsworth: Penguin Books, 1988), 196; emphasis in the original.

A second stream, which I refer to as the "intersection stream," has emerged more recently and explores the intersection of nations, nationalism and ethnicity with other modes of social organization and identity, such as gender, race, class, or sexual orientation. Scholars working in this tradition include Nira Yuval-Davis, Anne McClintock, Sylvia Walby and George Mosse.[46]

The third or "morality stream" investigates the morality of ethnicity and nationalism, that is, it examines ethical and philosophical issues which arise from those categories. Writers such as Will Kymlicka, Charles Taylor, James Tully and Yael Tamir address, for example, the normative desirability of a politics of recognition, the implications of nationalism and ethnicity for state legitimacy, their significance for the delineation of social groups and the distribution of rights, claims for the accommodation of communal groups in the political process, the compatibility between nationalism and liberalism, as well as consequences of the idea of self-determination.[47]

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[45] See, for example, Ernest Gellner, *Nations and Nationalism* (Oxford: Blackwell, 1983); Anthony Smith, *Theories of Nationalism*, second edition (London: Duckworth, 1983 [1971]); Hobsbawm, *Nations and Nationalism*; Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, second edition (London: Verso, 1991).

[46] Nira Yuval-Davis, *Gender and Nation* (London: Sage, 1997); Anne McClintock, "'No Longer in a Future Heaven': Gender, Race and Nationalism," in Anne McClintock, Aamir Mufti and Ella Shohat, eds., *Dangerous Liaisons: Gender, Nation and Postcolonial Perspectives* (Minneapolis: University of Minnesota Press, 1997), 89-112; Sylvia Walby, "Woman and Nation," in Gopal Balakrishnan, ed., *Mapping the Nation* (London: Verso, 1996), 235-254; George Mosse, *Nationalism and sexuality: respectability and abnormal sexuality in modern Europe* (New York: H. Fertig, 1985).

One of the characteristic products of the literature in the grand theory tradition is a variety of (often dichotomous) typologies of nations and nationalisms; thus, it has become customary to distinguish between civic and ethnic; cultural and political; Western and Eastern; humanitarian, Jacobin, traditional, liberal, economic and integral; or *risorgimento*, reform and integral nationalism.[48] Works written in the tradition of the morality stream have similarly developed a number of diverging typologies of claims for recognition advanced on the state in contemporary societies. James Tully, for example, distinguishes six forms of a politics of recognition: nationalism, supranationalism, intercultural demands, claims by ethnic and linguistic minorities, feminism, and indigenous peoples. Despite their differences, Tully suggests that these six forms share a number of fundamental similarities, such as "a longing for self rule: to rule themselves in accord with their own customs and ways."[49]

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[47] Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995); Charles Taylor et al., *Multiculturalism: Examining the Politics of Recognition* (Princeton: Princeton University Press, 1994); James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge University Press, 1995); Yael Tamir, *Liberal Nationalism* (Princeton: Princeton University Press, 1993).

[48] Raymond Breton, "From ethnic to civic nationalism: English Canada and Quebec," *Ethnic and Racial Studies* 11:1 (1988), 85-102; Friedrich Meinecke, *Cosmopolitanism and the National State* (Princeton: Princeton University Press, 1970 [1907]); Hans Kohn, *The Idea of Nationalism* (New York: Collier, 1967 [1944]); Carlton J. Hayes, *The Historical Evolution of Modern Nationalism* (New York: Macmillan, 1931); Peter Alter, *Nationalism* (London: Edward Arnold, 1989).

[49] James Tully, *Strange Multiplicity*, 4.

In a similar vein, Will Kymlicka distinguishes between minority group demands for three types of rights: self-government rights (that is, claims for separate governments for and controlled by minority groups in order to protect their interests and preserve their identity), polyethnic rights (that is, rights protecting ethnic minorities and their cultures, such as separate schools using the minority language) and special representation rights (aiming at ensuring a meaningful minority presence in a country's political decision-making institutions and processes).[50] These three types of rights will be discussed in greater detail in Chapter 2. For the time being, it is interesting to note that Kymlicka draws a clear distinction between demands made by national minorities and those made by ethnic minorities, arguing that ethnic minorities can legitimately claim only polyethnic and special representation rights, while nations can legitimately advance claims for self-government. However, this does not preclude national minorities from making "lesser" claims falling in the other two categories.

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[50] Will Kymlicka, *Multicultural Citizenship*, 6-7. Charles Taylor, the third leading Canadian political philosophers on issues of recognition, does not advance an explicit typology of claims for political recognition. He does, however, draw a distinction between communities such as Quebec which are differentiated from the rest of society through "deep diversity" and, in consequence, can legitimately claim recognition in the political sphere, and groups which allegedly are (and can) not (such as ethnic groups of non-British, non-French, non-Aboriginal extraction). See Charles Taylor, *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal/Kingston: McGill-Queen's University Press, 1993). Kymlicka takes a similar position: he distinguishes between groups that were incorporated into a political order involuntarily and those who immigrated to a country voluntarily. According to Kymlicka, different modes of incorporation confer different rights to political recognition.

1.5 Why Canada?

In discussing the significance of state territoriality for societal responses to ethnic and national diversity, the dissertation will focus on the Canadian case. There are a number of reasons for this focus. First, Canada's character as a multicultural, multinational, multiracial and multilingual society, as well as the seeming intractability of some of the conflicts around diversity, attest to the continuing significance of diversity for the political process. Second, Canada simultaneously exhibits all of the diverse claims for cultural recognition and group rights discussed by James Tully and Will Kymlicka (given that both of these authors are Canadian, this is not surprising). Ethnic and national minorities in Canada have historically made claims to polyethnic rights, special representation and self-government. Canada thus provides a richly textured background against which to assess some of the conceptual, normative and political-practical issues surrounding state policies on ethnic and national diversity.

Third, Canada is now often described as a prototypically multicultural society and as a model (in the prescriptive as well as descriptive sense) of tolerance between diverse ethnic and national groups. However, official multiculturalism is a relatively recent phenomenon. In addition, and more importantly, Canadian policies on ethnic and national diversity are, and always have been, significantly more complex than the usage of a blanket term such as multiculturalism would suggest. Rather than being homogeneous, universal and generic, Canadian state policies on diversity have been heterogeneous (combining different "ideal-typical" responses), particular (different segments of the population held diverging views on ethnic and national diversity) and specific (responses to diversity differed depending on the groups in question). Moreover, those policies have not been static but rather have changed considerably over time.

While the dissertation uses examples drawn from post-Confederation Canadian history, two caveats apply. First, the dissertation is not about Canada. It is not about Canada in the sense that it does not aim at providing a comprehensive analysis of changing Canadian state policies on ethnic or national diversity; nor does it aim at providing such an analysis of changing ethnic and national relations throughout Canadian history. Rather, the dissertation uses cases from Canadian history to support and illustrate its general argument about state territoriality. Relatedly, the dissertation is not concerned with charting shifting national membership spaces throughout Canadian history. Put differently, it does not attempt to map the historical development of conceptions of the nation (or different nations) within Canada - and in particular, it does not aim at engaging current debates about the ethnic or civic nature of Canadian nationalisms. To the extent that the dissertation addresses conceptions of national membership space, it does so in order to shed light on the dynamic interplay between state territoriality and state policies on ethnic and national diversity.

The second caveat concerns the level of analysis: the dissertation will focus exclusively on state policies at the federal level. This is not to imply that state policies at the provincial level do not have to tell us anything about the relationship between state territoriality and state policies on ethnic and national diversity. Rather, the rationale here is to ensure that the case studies examined in the thesis are comparable with regard to political and geographical scope.

1.6 Methodology and terminology

The nature of sources used by the thesis flows from the tasks and considerations outlined above. Thus, the dissertation will examine the theoretical literature on ethnic and national diversity to identify the range of policies on ethnic and national diversity that are most commonly discussed. Further, it will examine the historical record for different Canadian state policies on diversity; these empirical parts of the thesis will rely both on secondary literature, and on government and non-government sources (for example, documents produced by Canadian governments concerning the accommodation of internal nationalisms, or documents produced by proponents of internal nationalist movements).

These sources will be incorporated into a three-pronged approach which will examine the implications of state territoriality for state policies on ethnic and national diversity in relation to Canada's Aboriginal peoples, the so-called "French fact" in Canada, and "third force" Canadians (that is, Canadians of non-Aboriginal, non-French and non-British origins). In order to do so, each empirical chapter (Chapters 4 through 6) will explore one case illustrating the implications of state territoriality for state policies directed at these groups. The nine cases that will be discussed in these chapters have been selected on the basis of their historical significance for the development of ethnic and national relations in Canada, the construction of Canadian identity, or the identity narratives of specific ethnic or national groups within Canada. For example, the Manitoba schools crisis clearly demonstrated existing power differentials between British and French Canadians and had far-reaching consequences for the relations between these groups; the White Paper of 1969 represented a crucial point in the development of Aboriginal nationalisms and profoundly affected relations between Aboriginal peoples and the Canadian state; and the implementation of Canada's multiculturalism policy under the Trudeau government had significant implications for the re-ordering of Canadian identity on a symbolic level.

The selection of cases is, furthermore, geared towards illustrating the implications of state territoriality, as a particular mode of political authority, for Canadian policies on ethnic and national diversity. They are therefore cases that firmly operate within that mode. This should not be read as an implicit or explicit reification of state territoriality (in fact, any such reification would run counter to critiques of state territoriality presented in Chapter 3). Nor is the intent to deny that Canada has, on occasion, implemented policies that transcend the conceptual limitations of state territoriality (the constitutionally entrenched system of separate schools comes to mind as one example). Rather, the thesis is concerned with discussing state territoriality and outlining some of its concrete consequences for Canadian state policies. A systematic examination of alternatives to state territoriality, while an important follow-up step to the analysis presented in this thesis, is beyond its scope.

Before outlining the content of the thesis in greater detail, a brief note on terminology is in order. There is a large number of different labels that have been used to describe ethnic and national groups in Canada. This terminological richness reflects the complex, fluid and contested nature of ethnic and national boundary construction processes discussed earlier. For example, when examining the "French fact" in Canada, one may encounter various identifiers such as *Canadien*, French Canadian, or Francophone. These terms are highly context-specific and have different connotations for group identity and group boundaries. For example, “French Canadian” is a term that is sometimes used to stress ethnic or cultural elements in defining the “French fact”; “Francophone” typically emphasizes language as a marker of group identity; and labels such as “Québécois” or “Franco-Ontarian” underline the role of territory in constituting groups, but are typically understood to articulate territory with linguistic or ethnic criteria.

To further complicate the issue, and as stated earlier, conceptions of ethnic or national membership space seldom draw on one organizing principle alone. In consequence, while one term used to describe a specific group may foreground ethnicity, another language, or a third territory, all three will be embedded in ongoing contestations over the nature and boundaries of groups that engage different organizing principles in complex and dynamic configurations. Rather than settling on a single term to describe the “French fact” throughout Canadian history, I will therefore aim to reflect the shifting nature of group identities in this dissertation by employing a variety of different terms in a context-sensitive fashion. Thus, when discussing contemporary notions of Quebec nationalism, it makes little sense to speak of French Canadian nationalism, as the latter term inadequately accounts for the territorial specificity of Quebec as a nation, the political (rather than exclusively cultural) aspects of contemporary Quebec nationalism, ongoing attempts to define Quebec in terms that include residents of non-French extraction, and the fact that a significant number of Québécois do not self-identify as Canadians.[51]

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[51] For a detailed discussion of some of the chief differences between historical articulations of French Canadian nationalism and contemporary Quebec nationalism see Louis Balthazar, “The Faces of Quebec Nationalism,” in David Taras, Beverly Rasporich and Eli Mandel, eds., *A Passion for Identity: An Introduction to Canadian Studies*, second edition (Toronto: Nelson, 1993), 92-107. For a critical discussion of the

Terminological issues are similarly complex with regard to other population groups in Canada. For example, Aboriginal, Indigenous, Amerindian or Native peoples are terms that refer to the same population category, but terminological usage varies with social, historical and political context. In addition, the boundaries of "Aboriginality" are contested, and the category itself is highly heterogeneous, as it comprises status Indians, non-status Indians, Inuit, Métis, and roughly six hundred discrete bands.[52] For purposes of this dissertation, the terms "Aboriginal peoples" and "Indigenous peoples" will be used interchangeably to refer to peoples residing in what is today considered Canadian territory from pre-Columbian times. Where applicable, more closely delineated terms will be used to refer to specific groups within that category (such as the Nunavut Inuit).

1.7 Chapter overview

The structure of the dissertation grows out of the questions the project seeks to address, that is, the place of state territoriality in the literature on state policies towards ethnic or national

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contradictory and contested nature of contemporary Quebec nationalism see, *inter alia*, Daniel Salée and William Coleman, "The Challenges of the Quebec Question: Paradigm, Counter-paradigm, and ...?" in Wallace Clement, ed., *Understanding Canada: Building on the New Canadian Political Economy* (Montreal/ Kingston: McGill-Queen's University Press, 1997), 262-285, especially 275-278; and Daniel Salée, "The Québec State and Indigenous Peoples," in Alain-G. Gagnon, ed., *Québec: State and Society*, third edition (Peterborough: Broadview, 2004), 97-124, especially 105-109.

[52] For a brief discussion of relevant terminological issues see Terry Wotherspoon and Vic Satzewich, *First Nations: Race, Class, and Gender Relations*, reprint with new introduction (Regina: University of Saskatchewan, Canadian Plains Research Center, 2000), xv.

diversity, and the significance of state territoriality for the conception and nature of those policies. Chapter 2 will provide an overview of existing literature on the accommodation or suppression of ethnic and national diversity. The reviewed works will represent a cross-section of leading scholars writing from a variety of geographical perspectives, such as Walzer, Kymlicka and Smooha/Hanf. The main argument this chapter will make is that the existing literature on responses to ethnic diversity has paid scant attention to state territoriality. To the extent that there has been a "spatial turn" in the social sciences, this particular body of scholarship has not followed it. In part, this may be due to the nature of this "spatial turn" itself, which is indebted to metaphorical readings of space (paying less attention to material, geographical spaces, such as territory). In contrast, most of the nationalism and ethnic diversity literature continues to operate within liberal or Marxist frameworks of analysis.

Chapter 3 will argue that the neglect of state territoriality has been due to the endemic nature of the territorial imagination, that is, a perception of state territoriality as a natural, normal, neutral and immutable way of organizing political authority. This chapter will contend that, in fact, state territoriality is neither natural nor normal. In addition, it is highly mutable, and does have significant power effects. This contention will be based on a reading of state territoriality informed by analyses of the link between territory and power developed by political geography, approaches to power, knowledge and hegemony in the vein of Foucault, Gramsci and Mouffe, and neo-institutional analyses of the state and the significance of institutions for the production of identity as well as access to resources.

Chapters 4 through 6 will critique one of the elements of the territorial imagination:

the idea that state territoriality is politically neutral. They will do so by outlining some of the implications of state territoriality for Canadian state policies on ethnic and national diversity. Each of these chapters will focus on one of the broad responses to ethnic and national diversity identified in Chapter 2: control, neutrality, and recognition. Thus, Chapter 4 will explore control approaches, that is, approaches that aimed at the expulsion, extermination, exclusion or subordination of minority groups. Specifically, it will examine the Manitoba schools crisis, the establishment of Native residential schools, and the dispossession, relocation and partial expulsion of Japanese Canadians during World War II.

Chapter 5 will examine the role of territoriality in shaping the outcome of neutrality approaches to ethnic and national diversity. Neutrality approaches seek to confine the expression of ethnic and national identity to the private sphere and construe the public sphere (including the state) as neutral. By way of exploring the impact of state territoriality on neutrality approaches, the chapter will consider the conscription crisis during World War I, the 1969 White Paper on Indian Policy, and changes to Canadian immigration policy during the 1960s (in particular, the introduction in 1967 of the so-called "points system" for the selection of immigrants).

Chapter 6 will explore the significance of state territoriality for policies on ethnic and national diversity that are designed to accommodate diversity in the public sphere. Policies in this third, recognition category range from an entrenchment of polyethnic rights to a measure of self-government for ethnic and national groups (e.g., by way of federal arrangements). Recognition approaches thus can follow a logic of integration (seeking to ensure the inclusion of certain ethnic and national groups in common state institutions) or of segmentation (aiming at providing ethnic and national groups with a measure of control over affairs considered critical to their identity or survival). In order to examine the implications of state territoriality for recognition approaches, this chapter will discuss the introduction of Canada's multiculturalism policy, the establishment of Nunavut, as well as the Quebec Secession Reference and the federal Clarity Act.[53]

By way of conclusion, Chapter 7 will summarize the arguments made in the preceding chapters. Contrary to the assumptions underpinning the territorial imagination, it will underline that state territoriality is not neutral but rather steeped in social power relations. State territoriality cannot be viewed as an unproblematic given, but needs to be taken into account when analyzing state policies on ethnic and national diversity. Following the summary of the main argument, Chapter 7 will outline areas for future research. In particular, it will suggest that the production of the territorial imagination itself provides a fruitful area of inquiry, as does the moral justification of state claims to particular territories. In addition, it will briefly discuss whether state territoriality - despite its character as a mechanism of containment - may, in some cases, actually drive or exacerbate conflict between ethnic and national groups. Finally, it will suggest that a discussion of alternative modes of organizing political authority - such as the model of national cultural autonomy proposed by the Austro-Marxists Karl Renner and Otto Bauer - may provide a fruitful avenue to addressing some of the limitations of state territoriality.

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[53] In 1996, the Canadian federal government requested that Canada's Supreme Court issue an advisory opinion on the legality of Quebec secession. The Court announced its opinion in 1998; that opinion is commonly referred to as the Quebec Secession Reference.

2.

STATE POLICIES ON ETHNIC AND NATIONAL DIVERSITY

This chapter will briefly review some of the typologies of state policies on ethnic and national diversity which have been developed within Political Science and ethnic studies, among other disciplines. By way of conclusion, it will highlight two elements common to all of these typologies: their neglect of state territoriality, and their categorization of state policies. As noted in the introductory chapter, different streams within ethnic and nationalism studies have produced a great number of typologies concerning, for example, diverging concepts of nationalism or different forms of claims to recognition. Similarly, there is no shortage of classifications which seek to impose a semblance of order on the multitude of historical and contemporary responses to ethnic and national diversity.[54] As a consequence, attempts at providing a comprehensive overview of those typologies would be likely to meet with limited success. Instead, the following section will offer a brief examination of several classifications which, taken together, constitute a reasonably representative cross-section of existing typologies. The typologies to be discussed have been proposed by Michael Walzer, Will Kymlicka, Montserrat Guibernau, Dieter Senghaas and Ulrich Schneckener, Sammy Smooha and Theodor Hanf, Evelyn Kallen, and Howard Palmer, respectively. These authors have been chosen chiefly based on their influence in contemporary studies of ethnicity, culture, difference and nationalism, both on an international level (Walzer, Kymlicka, Guibernau, Senghaas and Schneckener, Smooha and Hanf) and - given this study's focus on the case of Canada - in the Canadian context (Kallen, Palmer and, once again, Kymlicka). In addition, taken as a whole, the work of the selected authors bridges empirical and normative approaches to the study of ethnic and national diversity. This selection demonstrates that the territorial imagination is not limited to either normative or empirical perspectives; rather, it characterizes much of the work conducted within both of them.

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[54] See, *inter alia*, Barbara Wake Carroll and Terrance Carroll, "Accommodating ethnic diversity in a modernizing democratic state: theory and practice in the case of Mauritius," *Ethnic and Racial Studies* 23:1 (2000), 120-142; Vojislav Stanovčić, "Problems and Options in Institutionalizing Ethnic Relations," *International Political Science Review* 13:4 (1992), 359-379; Alison M. Jaggar, "Multicultural Democracy," *Journal of Political Philosophy* 7:3 (1999), 308-329; Vernon Bogdanor, "Overcoming the twentieth century"; William Safran, "Non-separatist Policies Regarding Ethnic Minorities: Positive Approaches and Ambiguous Consequences," *International Political Science Review* 15:1 (1994), 61-80; Hans van Amersfoort, "Institutional Plurality: Problem or Solution for the Multi-ethnic State?" in Sukumar Periwal, ed., *Notions of Nationalism* (Budapest/London/New York: Central European University Press, 1995), 162-181.

2.1 Walzer: regimes of toleration

In his recent work on toleration, Michael Walzer describes his subject-matter as "the peaceful coexistence of groups of people with different histories, cultures, and identities [...]." He states further: "I begin with the proposition that peaceful coexistence (of a certain sort: I am not writing here about the coexistence of masters and slaves) is always a good thing."[55] Accordingly, he does not examine approaches to difference which aim at its elimination or marginalization. Moreover, Walzer is not interested in discussing toleration in its totality;

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[55] Michael Walzer, *On Toleration* (New Haven/London: Yale University Press, 1997), 2.

thus, he is not concerned with the toleration of eccentric individuals or political adversaries.[56] Rather, his concern

> is with toleration when the differences at issue are cultural, religious, and way-of-life differences - when the others are not fellow participants and when there is no common game and no intrinsic need for the differences they cultivate and enact.[57]

Walzer suggests that there is a continuum of responses to difference of the above kind which can be described as tolerant. This continuum ranges from reluctantly accepting difference, to cherishing and celebrating diversity.[58] One quality common to all of these responses is a willingness to coexist with groups or individuals whose beliefs or practices differ substantially from one's own - to "coexist with an otherness that, however much [one] approve[s] of its presence in the world, is still something different from what [one] know[s], something alien and strange."[59] Arguing that there are no universal principles which animate all forms of toleration regardless of historical or spatial circumstances (apart from a basic commitment to peace), Walzer identifies five regimes of toleration: multinational empires, international society, consociations, nation-states, and immigrant societies.

In ***multinational empires***,[60] constituent groups have little choice whether they want to coexist or not. Their interactions are regulated by a set of rules imposed by the imperial centre which is chiefly interested in maintaining the stability of empire and ensuring the uninterrupted flow of revenue. At the same time, communities enjoy a great degree of internal autonomy, at least as long as that autonomy does not run counter to imperial interests. While members of different communities may not necessarily be tolerant of each other, their interactions will, under those circumstances, nonetheless be governed by tolerance. What marks multinational empires as tolerant and ensures the survival of different communities are not the attitudes of different communities to each other, but the fact of official toleration, that is, toleration by the imperial centre.

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[56] Walzer, *On Toleration*, 8-9.

[57] Walzer, *On Toleration*, 9.

[58] Walzer, *On Toleration*, 10-11.

[59] Walzer, *On Toleration*, 11.

[60] Walzer, *On Toleration*, 14-19.

Walzer suggests that multinational empires have been the most successful at achieving peaceful integration, but underlines that they are neither democratic nor liberal regimes.[61] The different communities are not voluntary associations: their boundaries are mostly fixed, and they tend to be intolerant of and repressive towards internal dissent and difference. Furthermore, those communities are part of an overarching imperial structure which is autocratic. At the same time, it is precisely their autocratic nature which allows multinational empires to be tolerant, since the imperial centre is, according to Walzer, not bound to the interests of any specific community.

By way of contrast, ***international society*** does not refer to the integration of difference within a country. Instead, Walzer uses the term to describe the society of states, where the attainment of sovereignty in effect guarantees toleration. As he puts it:

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[61] Walzer, *On Toleration*, 15.

> All the groups that achieve statehood and all the practices they permit [...] are tolerated by the society of states. [...] Sovereignty guarantees that no one on *that* side of the border can interfere with what is done on *this* side.[62]

A society of states, due to its recognition of territorial sovereignty, imposes substantial costs on active interference in the customs or practices of another society: those costs "involve raising an army, crossing a border, killing and being killed."[63] Nonetheless, toleration in international society has certain limits; it does not apply to practices which are seen to violate basic humanitarian principles. Under those conditions, humanitarian intervention by individual states is perceived as acceptable. However, humanitarian concerns do not impose an obligation on states to intervene. Instead, humanitarian intervention remains voluntary. In consequence, even though international society may find certain practices in specific states to be in violation of humanitarian principles, these practices may not necessarily prompt interference. In fact, Walzer observes that a "coincidence between what is intolerable and what is not tolerated is uncommon."[64]

The third regime of toleration identified by Walzer is that of the ***consociational state***. Walzer describes consociationalism as a

> heroic program because it aims to maintain imperial coexistence without the imperial bureaucrats and without the distance that made those bureaucrats more or less impartial rulers. Now the different groups are not tolerated by a single transcendent power; they have to tolerate one another and work out

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[62] Walzer, *On Toleration*, 19; emphases in the original.

[63] Walzer, *On Toleration*, 20.

[64] Walzer, *On Toleration*, 21.

among themselves the terms of their coexistence.[65]

In a sense, then, consociationalism parallels some aspects of multinational empires: it guarantees the peaceful coexistence of different ethnic and cultural communities by granting them a role in the organization of public space. However, toleration is no longer the outcome of imperial control and imposition of peaceful inter-communal relations by the centre, but is negotiated between the elites of the different communities themselves. "They agree to a constitutional arrangement, design institutions and divide offices, and strike a political bargain that protects their divergent interests."[66]

Thus, the consociational state is predicated on power-sharing arrangements between the different communities which maintain relative equality between them (for instance, through the use of proportionality in distributing public resources or public offices among groups), or at least curtail the dominance of one community. As such, consociationalism is vulnerable to developments which threaten to upset the precarious balance of power between groups. Toleration therefore requires trust in the ability of the agreed upon institutional framework to protect communities and their interests from other groups.[67]

In the absence of such trust, consociations are unlikely to succeed. Once nationalism begins to play an important role in structuring public life and differences between communities become ideologically mobilized, the ***nation-state*** emerges as a more likely regime of toleration.[68] This regime is characterized by the existence of a permanent majority,

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[65] Walzer, *On Toleration*, 22.

[66] Walzer, *On Toleration*, 22.

[67] Walzer, *On Toleration*, 23-24.

> a single dominant group [that] organizes the common life in a way that reflects its own history and culture and, if things go as intended, carries the history forward and sustains the culture. [...] National groups seek statehood [...] in order to control the means of reproduction.[69]

The nation-state is, therefore, not neutral between cultures. It can tolerate minorities, but this toleration usually falls short of granting autonomy or instituting corporatist arrangements. Instead of minority groups, the subject of toleration in the nation-state are the individuals belonging to those groups. These individuals are perceived as citizens first, and as members of their specific groups only secondarily. In their capacity as citizen, their rights and obligations are identical to those of other citizens.[70] At the same time, they are expected to operate within the norms and framework established by the majority. Minority cultures, on the other hand, are relegated to the private sphere and do not have a legitimate role in public life. Even though they are seen as a private matter, however, they are subject to close scrutiny by the majority. Thus, "[p]atterns of discrimination and domination long accepted [...] within the group may not be acceptable after members are recognized as citizens [...] [illegible]

According to Walzer, the nation-state regime of toleration has two consequences for minority groups: Firstly, as already discussed, this type of regime offers no toleration to groups *as* groups. Secondly, it may "force [minority] groups to be more tolerant of individuals."[72] Minority groups are less able to exercise effective internal control over their members. Consequently, these groups evolve into voluntary associations which can hope to prevent the erosion of membership only if their culture and doctrines are perceived as appealing and if their organizations provide useful services to their members. In the long run, this may contribute to the loss of cultural distinctiveness.

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[68] Walzer, *On Toleration*, 24.

[69] Walzer, *On Toleration*, 25.

[70] As Walzer puts it: "As citizens, they have the same rights and obligations as everyone else" - "everyone else" presumably referring to the members of the dominant group; Walzer, *On Toleration*, 25.

[71] Walzer, *On Toleration*, 27.

In contrast to the nation-state, the ***immigrant society*** lacks a permanent majority. The different groups of which society is comprised are not territorially concentrated, but live intermingled with other groups. Territorial autonomy for groups is therefore impossible. Similar to minority groups in the nation-state, the different cultural or ethnic communities are conceived as voluntary associations. "No group in an immigrant society is allowed to organize itself coercively, to seize control of public space, or to monopolize public resources."[73] In immigrant societies, then, the state is the only organization with a claim to public authority. The role communities can play is limited to the private sphere. In contradistinction to the nation-state, the state is therefore not controlled by any one group; instead, it is "neutral among the groups, tolerant of all of them, and autonomous in its purposes."[74] As in the nation-state, it is individuals and their beliefs and practices that are tolerated, rather than groups as such.

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[72] Walzer, *On Toleration*, 27.

[73] Walzer, *On Toleration*, 32.

[74] Walzer, *On Toleration*, 31.

2.2 Kymlicka: group-differentiated rights

According to Will Kymlicka, the central issue facing multiculturalism is the accommodation of ethnic and national diversity in ways that are acceptable in the context of liberal democracy.[75] While Kymlicka disagrees with critics that chastise liberalism for its focus on individual rights, he does point out that

> it is increasingly accepted in many countries that some forms of cultural difference can only be accommodated through special legal or constitutional measures, above and beyond the common rights of citizenship. Some forms of group difference can only be accommodated if their members have certain group-specific rights [...].[76]

There are three sets of group-specific rights Kymlicka has in mind: self-government rights, polyethnic rights, and special representation rights. Which of these may be applicable or required in specific situations depends in large measure on the character of the groups they are designed to accommodate. Thus, Kymlicka distinguishes between two groups which can legitimately lay claim to some form of political recognition of cultural distinctiveness, namely national minorities and immigrant groups.[77] Nations are historical and institutionally complete communities with a distinct language and culture which are located in a specific territory. Multinational states emerge from the voluntary (by federation) or involuntary (by conquest) incorporation of different nations into the same polity.[78] Immigrant groups, by comparison, do not occupy a specific territory and have been incorporated into the polity through their own volition.[79] They participate in and integrate into public (majority) institutions, while their cultural distinctiveness is largely relegated to the private sphere. "In rejecting assimilation, they are not asking to set up a parallel society, as is typically demanded by national minorities"[80] - that is, they may seek recognition for their ethnic and cultural distinctiveness, but do not normally aim at achieving self-government.

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[75] Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995), 26.

[76] Kymlicka, *Multicultural Citizenship*, 26.

[77] Kymlicka, *Multicultural Citizenship*, 11-26, 76-80.

Self-government claims, according to Kymlicka, "typically take the form of devolving political power to a political unit substantially controlled by the members of the national minority, and substantially corresponding to their historical homeland or territory."[81] Kymlicka notes that self-government rights of this kind are seen as inherent rights, and thus as permanent arrangements. One possible means of instituting self-government of this kind is federalism, provided the boundaries of sub-regional units can be drawn in a way which ensures that a given national minority will be the majority in at least one of those units. If this is the case, national self-government is effectively achieved by granting the sub-units jurisdiction over policy areas which are seen as significant to the survival of the national minority and its distinctive culture. In fact, while federalism may not necessarily originate from a concern with cultural diversity, it has nonetheless in many instances been used to accommodate national minorities. The effectiveness of federalism in achieving this objective is, however, limited by actual settlement patterns. In situations where, due to limited numbers or dispersal, national minorities do not represent the majority in at least one regional sub-unit (a province or state), other solutions may be called for, such as a devolution of powers to reserves (as in the case of some indigenous groups in Canada or the United States).[82]

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[78] Kymlicka, *Multicultural Citizenship*, 11.

[79] Kymlicka, *Multicultural Citizenship*, 95-96.

[80] Kymlicka, *Multicultural Citizenship*, 15.

[81] Kymlicka, *Multicultural Citizenship*, 30.

The second mechanism of group accommodation Kymlicka identifies is that of ***polyethnic rights***. "These group-specific measures [...] are intended to help ethnic groups and religious minorities express their cultural particularity and pride without it hampering their success in the economic and political institutions of the dominant society."[83] Polyethnic rights, unlike self-government rights, typically aim at furthering minority integration into society.[84] They include a variety of measures, such as public funding for specific cultural practices, provision of minority language education in public schools, or the exemption of minority groups from laws which conflict with their customs.[85]

Special representation rights, finally, are concerned with ensuring adequate representation of minorities or other groups in public (majority) institutions.[86] These institutions are often seen as unrepresentative, as their composition tends to favour certain social groups over others. Thus,

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[82] Kymlicka, *Multicultural Citizenship*, 27-30.

[83] Kymlicka, *Multicultural Citizenship*, 31.

[84] Kymlicka, *Multicultural Citizenship*, 176-186.

[85] Kymlicka, *Multicultural Citizenship*, 31.

[86] Kymlicka, *Multicultural Citizenship*, 31-33, 131-151.

> [t]hroughout the Western democracies, there is increasing concern that the political process is 'unrepresentative', in the sense that it fails to reflect the diversity of the population. Legislatures in most of these countries are dominated by middle-class, able-bodied, white men. [...] The under-representation of historically disadvantaged groups is a general phenomenon.[87]

Special representation rights (such as, for example, guaranteed representation through the reservation of parliamentary seats for minority members), Kymlicka suggests, are commonly viewed as a means to correct systemic disadvantages which preclude adequate representation of minority groups and their concerns. As such, they should be seen as temporary correctives, in marked contrast to polyethnic and self-government rights. "Society should seek to remove the oppression and disadvantage, thereby eliminating the need for these rights."[88]

However, special representation rights are sometimes also viewed as supplementing self-government rights. From this perspective, special representation of minorities in public (majority) institutions is seen as a safeguard against the unilateral abolition of self-government and, in consequence, envisioned as a permanent feature of the political landscape.[89]

2.3 Guibernau: nations without states

In her recent study of reemerging nationalisms in European and North American nations without states,[90] Montserrat Guibernau distinguishes between four basic political responses to the nationalism of stateless nations: cultural recognition, political autonomy, federation, and denial and repression. Contrary to Walzer and Kymlicka, then, she is not concerned exclusively with responses which institute tolerance or accommodate diversity, but also investigates approaches which are hostile to diversity. While her approach is therefore broader in one sense, it is narrower in another sense: Guibernau is not concerned with communal difference in general. Instead, she focuses on a specific type of groups, that of stateless nations.

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[87] Kymlicka, *Multicultural Citizenship*, 32.

[88] Kymlicka, *Multicultural Citizenship*, 32.

[89] Kymlicka, *Multicultural Citizenship*, 32-33.

Cultural recognition, in Guibernau's definition, involves the "acknowledgement of certain cultural traits as specific characteristics of a territorially-based national minority [...]."[91] This definition flows from her understanding of the nation, which, among other things, emphasizes the territorial aspect of nationhood.[92] Guibernau stresses the fact that cultural recognition is predicated on a unitary view of the state. Typically, the state uses its education system to foster a common language and culture. Group differences are not perceived as challenges to the unity and stability of the state, but as part of its culture.

In terms of concrete institutional arrangements, cultural recognition may involve governmental decentralization, but this is not necessarily the case. More importantly, where cultural recognition does involve decentralization, the latter is strictly limited. There may, for instance, be special government officials that are responsible for representing or administering a specific region. However, these officials are not elected by the local residents of that region, nor are they directly responsible to them.[93] Sovereignty remains the exclusive preserve of the (unitary) state. Cultural recognition "usually involves the protection and promotion of the regional language, if there is one, and culture,"[94] but the means it uses to achieve those goals fall short of a devolution of powers to regional institutions.

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[90] Montserrat Guibernau, *Nations without States: Political Communities in a Global Age* (Cambridge: Polity Press, 1999).

[91] Guibernau, *Nations without States*, 34.

[92] Guibernau, *Nations without States*, 13-14.

Similar to cultural recognition, ***political autonomy*** preserves the central state's sovereignty monopoly. However, the polity is to some extent decentralized. In essence, implementing political autonomy means that "a unitary state [...] devolv[es] some of its powers concerning a specific number of issues *to all or some* of its constituent regions [...]."[95] Decentralization is often portrayed as a positive measure contributing to the enhancement democracy, efficiency and legitimacy. At the same time, decentralization in systems of political autonomy is of a limited nature. Most significantly, the constituent regions do not acquire sovereignty. Instead, they remain accountable to the central state.[96] As the above quote indicates, political autonomy may be implemented in a symmetrical or asymmetrical fashion; that is, it may be granted across the board to all regions within a state or only to some of them. As Guibernau points out, both the central state as well as those regions which do not enjoy a measure of political autonomy may have little love for asymmetrical structures. Nevertheless, asymmetry "might come to be regarded as the only acceptable alternative for some nations without a state if they are to be discouraged from seeking independence."[97] In this sense, asymmetrical autonomy presents a means to confer "special status" on a stateless nation which maintains the territorial integrity of a state by averting minority demands for outright statehood via secession.

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[93] Guibernau, *Nations without States*, 35.

[94] Guibernau, *Nations without States*, 36.

[95] Guibernau, *Nations without States*, 37; emphasis added.

[96] Guibernau, *Nations without States*, 38, 49.

The third model of accommodating stateless nations, that of ***federation***, also maintains the territorial integrity of the state. Following Graham Smith, Guibernau suggests that federalism represents not only a particular institutional framework, but also a political ideology. As an ideology, federalism revolves around a commitment to balancing unity and diversity. As Guibernau puts it:

> At the centre of the federalist idea lies the assumption of the worth and validity of diversity. For this reason federations have often proved highly useful political tools in protecting national minorities concentrated in particular territorial areas within the federal state.[98]

The member-states of a federal union are not dependent on or subject to the central state. Instead, they themselves are "states with states rights."[99] Contrary to political autonomy, then, federalism divides power between the central and regional governments.[100] In this sense, federal decentralization is much more extensive. Moreover, it is also enshrined in the constitution.[101] Guibernau agrees with Preston King's observation that the distinctive feature of federal regimes "is not the fact that the people are viewed as sovereign, but that the expression of this sovereignty is tied to the existence and entrenchment of regional, territorial units."[102] Put differently, in federal systems, sovereignty ceases to be the exclusive property of the central state.

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[97] Guibernau, *Nations without States*, 49.

[98] Guibernau, *Nations without States*, 51.

[99] Michael Burgess, quoted in Guibernau, *Nations without States*, 51.

[100] Guibernau, *Nations without States*, 53-54. Guibernau suggests that this is typically done in a symmetric fashion (that is, regional governments enjoy identical powers), although she does acknowledge that the principle of symmetry is under attack in several federal regimes.

The fourth response to stateless nations discussed by Guibernau differs substantially from the first three. While cultural recognition, political autonomy and federation all seek to accommodate internal difference by a variety of means, the approach of ***denial and repression*** has no such ambition. On the contrary:

> Denial concerns the state's refusal to acknowledge the existence of any sort of cultural, historical or political *national* minorities within itself. In this situation, internal diversity is ignored, and assimilation is actively encouraged. The state imposes a unique language, culture and institutions which are presented as the only ones which both exist and can exist within the state's territory.[103]

Denial of difference can easily shade into repression, that is, attempts to actively eradicate internal difference. "Repression has many faces, and it ranges from mere socio-economic to political measures which may include the use of force."[104] Repression may, for example, comprise the prohibition of minority languages, the abolition of minority institutions, or the intimidation of minority members. While measures aimed at repressing internal diversity may have the desired effect of eroding a minority's ability to mount an effective resistance, they may also produce the opposite outcome and actually foster resistance. Whether resistance diminishes or increases in response to repressive measures depends, Guibernau suggests, to a significant extent on the characteristics of the minority concerned.[105]

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[101] Guibernau, *Nations without States*, 50. Guibernau argues that a "state may adopt some federal elements, but it cannot be referred to as a federation unless the federal principle is stated in its constitution" (*ibid.*, 53).

[102] Preston King, quoted in Guibernau, *Nations without States*, 52.

[103] Guibernau, *Nations without States*, 60; emphasis in the original.

2.4 Senghaas and Schneckener: solutions to ethno-national conflict

In their 1997 survey of models for the solution of ethno-national conflicts in a European context, Dieter Senghaas and Ulrich Schneckener identify three broad state strategies for dealing with ethno-national minorities: elimination of cultural difference within a state through measures ranging from assimilation and expulsion to genocide; control, where the majority does not attempt to eradicate cultural difference, but systematically excludes minorities from political or economic power; and recognition, which not only acknowledges the existence of difference, but seeks to facilitate the coexistence of majority and minority groups.[106]

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[104] Guibernau, *Nations without States*, 64.

[105] Guibernau, *Nations without States*, 64-65.

[106] Ulrich Schneckener and Dieter Senghaas, "Auf der Suche nach friedlicher Koexistenz: Modelle zur Bearbeitung ethno-nationaler Konflikte in Europa," InIIS-Arbeitspapier Nr. 8/97 (Bremen: Institut für Interkulturelle und International Studien,

The first two of these strategies, elimination and control, are difficult to reconcile with the rule of law and the precepts of liberalism. In addition, Schneckener and Senghaas argue, they are not conducive to the permanent solution of ethnic or national conflicts. Ultimately, these conflicts will become chronic. Therefore, recognition presents the only viable solution to ethnic and national conflicts.[107] Recognition can assume a variety of institutional forms, such as minority rights, bilateral minority protection, territorial solutions, consociationalism, or secession and partition.[108]

Minority rights, according to Schneckener and Senghaas, are the most basic form of recognition. They involve the institutionalization (within the constitution, through minority legislation, or within the context of specific laws) of special rights for minorities which, "in the broadest sense, provide the legal foundation for the cultural and political (self)organization of minorities."[109] The category of minority rights comprises a wide range of instruments of recognition. Minority rights may involve the formal recognition of a minority's right to existence, but they may also take the form of protection from discrimination, preservation of cultural identity, private and public usage of minority languages, autonomy in such policy areas as education, access to the media, participation in the civil service, the establishment of minority organizations, political representation (both

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Universität Bremen, 1997; http://www.institute.uni-bremen.de/~iniis/papiere/8-97.doc, accessed 11 February 2002), 4.

[107] Schneckener/Senghaas, "Auf der Suche," 4-5.

[108] Schneckener/Senghaas, "Auf der Suche," 9-32.

[109] Schneckener/Senghaas, "Auf der Suche," 9; my translation.

in state institutions and on an international level), and administrative autonomy.[110]

Bilateral minority protection can develop in situations where one nation is in the majority in one state, but in a minority in one or several neighbouring states. In those cases, the state dominated by a specific nation (what Rogers Brubaker might call the "external national homeland")[111] can assume the role of protector for "its" co-nationals who form a minority in an adjacent state. The two states may conclude formal agreements or treaties guaranteeing certain rights to the minority group, or establishing joint responsibility for formulation and implementation of solutions to ethnic or national conflict. This mechanism partially suspends the principle of international non-intervention; the protection of national minorities is no longer a purely domestic matter, but a subject of international politics.[112]

The third approach to recognition identified by Schneckener and Senghaas comprises ***territorial solutions***. Those can be divided into two categories, territorial autonomy and federalism:

> The first concerns special regulations for certain regions within the state, the second the territorial-political organization of the state as a whole. While territorial autonomy is a form of decentralization, federalism rests, ideally speaking, on a polycentric structure. [...] Territorial autonomy can be understood to mean the delegation of powers to a lower level; this can be based on simple legislation (statute of autonomy) as well as a constitutional right to autonomy. Federalism, on the other hand, involves a constitutionally guaranteed division of powers between the central and regional states.[113]

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[110] Schneckener/Senghaas, "Auf der Suche," 11-13.

[111] Rogers Brubaker, *Nationalism reframed.*

[112] Schneckener/Senghaas, "Auf der Suche," 16-17.

[113] Schneckener/Senghaas, "Auf der Suche," 18-19; my translation.

In essence, territorial autonomy refers to the devolution of administrative control to areas where the members of a national minority are a local majority.[114] Federalism, by comparison, is concerned with the institutional set-up of the state as a whole. It can take either symmetric or asymmetric forms: In symmetric federations, all regional governments have identical powers and relations to the central government (Belgium's federalization process can serve as an illustration). They may differ in both respects in asymmetric federations, as is the case with the autonomous communities in Spain. Both types of federalism (as well as territorial autonomy) aim at delineating regional governments or sub-states in a manner which corresponds as closely as possible to the existing settlement patterns of ethnic and national groups.[115] In practice, however, the creation of regional sub-states or autonomous regions will normally result in the simultaneous creation of "new" minorities within those sub-states or regions, which can further complicate inter-group relations.[116]

By way of contrast, ***consociational democracy*** institutionalizes power-sharing arrangements between different social groups. Those arrangements are designed to ensure that political decisions are based on a consensus among all relevant groups. Schneckener and Senghaas outline five such arrangements: (1) a grand coalition or an all-party government including each of the groups; (2) proportional representation of the different groups in state institutions and agencies; (3) veto powers concerning specific policy fields, granted either to a minority group or, when groups are of comparable size, to all groups; (4) group autonomy in various policy areas, which limits the number of policy fields requiring coordination between groups (group autonomy can be organized either territorially or non-territorially, that is, on the basis of individual group membership regardless of place of residence); and (5) mechanisms of arbitration between different groups.[117]

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[114] Schneckener/Senghaas, "Auf der Suche," 19.

[115] Schneckener/Senghaas, "Auf der Suche," 20.

[116] Schneckener/Senghaas, "Auf der Suche," 21.

Finally, Schneckener and Senghaas describe ***secession and partition*** as the most far-reaching forms of cultural recognition,[118] at least as long as boundaries are redrawn peacefully. These forms of recognition are based on two fundamental assumptions: first, relations between groups are mostly non-violent in character; and second, all parties to the conflict accept secession or partition as a legitimate solution. Secession and partition cannot be the subject of negotiations between groups if they are perceived as "destabilizing" by some groups. In such cases, they do not represent a viable approach to peaceful conflict resolution, although they might obviously still occur by violent means.[119]

According to Schneckener and Senghaas, a mechanism of peaceful secession involves a number of elements: to begin with, "an ethno-national group has a right to secession when a clear majority of its members (e.g., two thirds) vote for this option in a referendum."[120] In order to prevent the creation of new states which discriminate against minority groups within their borders, secessions are further legitimate only if the seceding group in turn permits internal minorities to secede from the newly created state. This recursive use of the majority principle has some limitations, as it cannot be applied in situations where the "new" minorities are non-territorial. In those cases, the seceding group has an obligation to respect human and minority rights; that obligation must be codified in some form prior to the creation of the new state.[121]

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[117] Schneckener/Senghaas, "Auf der Suche," 24-25.

[118] Schneckener/Senghaas, "Auf der Suche," 28-31.

[119] Schneckener/Senghaas, "Auf der Suche," 28.

[120] Schneckener/Senghaas, "Auf der Suche," 29; my translation.

2.5 Smooha and Hanf: democratic conflict regulation in deeply divided societies

According to Smooha and Hanf, deeply divided societies are characterized by cultural differences between ethnic or racial groups, or by the existence of separate societal institutions for different ethnic or racial groups. These groups may further have different positions on fundamental societal issues, and relations between them may be characterized by significant power imbalances. As a consequence, there is a high potential for conflict between these groups.[122] Smooha and Hanf suggest that historically, deeply divided societies have employed a range of strategies to manage these conflicts, such as violence, partition, domination and accommodation - all of which can take significantly different forms, depending on the specific socio-historical context.[123] Proceeding from this broad range of historical strategies, Smooha and Hanf concern themselves with identifying those strategies societies can legitimately resort to in the late twentieth century in order to manage ethnic (cultural, racial) conflict:

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[121] Schneckener/Senghaas, "Auf der Suche," 31.

[122] Sammy Smooha and Theodor Hanf, "The Diverse Modes of Conflict-Regulation in Deeply Divided Societies," *International Journal of Comparative Sociology* 33:1&2 (1992), 26-47, at 26.

[123] Smooha and Hanf identify a total of eight possible approaches to ethnic conflict management. All of them are variations or combinations of the above categories, modified by considerations of whether ethnic conflict regulation regimes prove to be stable in the long term, and whether they are unilaterally imposed by one group on the other. See Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 27.

> While the range of historical and contemporary modes of conflict-regulation is large indeed, the question is what are the acceptable and workable options for our time. The legitimacy and effectiveness of strategies are closely interrelated. Regulatory measures which blatantly deviate from present international standards on human and collective rights would encounter greater opposition by the affected groups and occasionally even trigger international intervention. Unilateral or violent methods [...] were more effective in the past because authoritarian rule was generally more tolerated and the subjected population could less readily mobilize and resist. The rapid spread of democratic ideas and institutions across the world has also diminished the effectiveness of non-democratic forms for handling communal conflicts.[124]

Thus, current international standards of conflict resolution, and especially the spread of democracy, leave only four options which, according to Smooha and Hanf, are legitimately available to regulate ethnic or racial conflict in a contemporary context: partition, ethnic democracy, consociational democracy and liberal democracy. Strategies such as continued violence, the denial of equal rights to minority groups or their exclusion from participation in political and economic processes in order to effect outright domination by one group, on the other hand, are deemed normatively unacceptable.

Smooha and Hanf maintain that the first mode of conflict regulation, ***partition***, is saddled with a number of problems: first, ethnic groups often do not live in clearly distinguishable areas. Instead, ethnic settlement patterns tend to be interspersed. "In consequence, it is impractical to redraw state boundaries in order to achieve reasonable ethnic boundaries."[125] Second, partition is problematical from an economic standpoint, as "the present world economic system favors large states and markets and the duplication of state apparatus is very costly [...]."[126] Essentially, partition renders a state system that is already economically inefficient even more inefficient. As a result of these two shortcomings, Smooha and Hanf conclude that partition can provide a viable solution to group conflict only in a select number of cases.

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[124] Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 30-31.

The remaining three types of conflict regulation differ substantially, both from one another and from partition. In ***liberal democracies***, the state is indifferent to ethnicity. In other words, it does not interfere in ethnic, cultural or race relations. Individuals enjoy equal political and civil rights regardless of their ethnic ties, and the latter are not recognized in the political process. Ethnic groups do not possess specific collective rights. Ethnicity, in short, is privatized. In liberal democratic regimes, then,

> the individual is taken as the cornerstone of the deeply divided society while ethnic affiliations are ignored by the state. [...] The privatization of ethnicity in liberal democracy maximizes individual rights but minimizes collective rights. Ethnic groups may establish their own educational system and communal organizations but must bear the expenses involved and keep certain standards. The state is also not obliged to recognize these communal organizations, to negotiate with their leaders, or to grant them any special status different from that given to any other voluntary association.[127]

In ***consociational democracies***, the state is likewise considered neutral. Neutrality in this context, however, takes on a meaning that differs significantly from liberal neutrality: here, instead of focusing exclusively on the individual and ignoring ethnic (racial, cultural) groups in the political process, the state extends political recognition to groups. In fact, "ethnicity is accepted as a principle for the organization of the state."[128] Consociational neutrality, then, does not equal non-recognition; instead, the state is neutral in that it "is not identified with any of the constituent groups and tries to reconcile the differences between them."[129] Consequently, the political process eschews majority rule and is characterized by power-sharing, compromise and consensus between ethnic elites. The different groups are represented in the various stages of political and administrative decision-making and quite often enjoy a certain degree of autonomy in matters such as education (in this way, consociational democracies clearly exceed liberal democratic approaches to accommodating collective claims).[130]

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[125] Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 31.

[126] Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 31.

[127] Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 33.

While liberal and consociational models have traditionally informed much of social science discourse on ethnic relations, the concept of ***ethnic democracy*** has been introduced only quite recently by Smooha. Ethnic democracies offer equal civil and political rights to all individuals, regardless of their ethnic, cultural or racial membership. Thus, according to Smooha, ethnic democracies differ substantially from *Herrenvolk* democracies, since the latter limit these rights to the members of the dominant group(s). In addition, ethnic democracies may grant certain collective rights to minority groups - for example, the right to communicate with public authorities in their own language, or recognition of religious rights.[131]

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[128] Sammy Smooha, "Minority Status in an Ethnic Democracy: The Status of the Arab Minority in Israel," *Ethnic and Racial Studies* 13:3 (1990), 389-413, at 390.

[129] Smooha, "Minority Status in an Ethnic Democracy," 390.

[130] Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 33.

At the same time, however, ethnic democracies display "institutionalized dominance over the state by one of the ethnic groups."[132] The dominant group views the state as primarily its property, while minorities are perceived as not entirely trustworthy in affairs of the state. In Smooha and Hanf's words,

> ethnic democracy differs from other types of democracy in according a structured superior status to a particular segment of the population and in regarding the non-dominant groups as having a relatively lesser claim to the state and also as being not fully loyal.[133]

This structured inequality takes a number of different forms, such as the differential access to positions of political power or the particular ethnic character of the state. Ethnic democracy thus attempts to combine contradictory principles: democracy and ethnicity according to some, or liberalism, republicanism and ethnicity according to others.[134]

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[131] Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 31-32; Smooha, "Minority Status in an Ethnic Democracy," 391.

[132] Smooha, "Minority Status in an Ethnic Democracy," 391.

[133] Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 32.

[134] Smooha/Hanf, "The Diverse Modes of Conflict-Regulation," 32; Yoav Peled, "Ethnic Democracy and the Legal Construction of Citizenship: Arab Citizens of the Jewish State," *American Political Science Review* 86:2 (1992), 432-443; Gershon Shafir and Yoav Peled, "Citizenship and stratification in an ethnic democracy," *Ethnic and Racial Studies* 21:3 (1998), 408-427.

2.6 Kallen: models of ethnic integration

According to Evelyn Kallen, the concept of ethnic integration refers to

> the entire set of social processes whereby continuing interaction between members of different ethnic collectivities within a society leads to changes in the cultural content, structural form, and ethnic identities of the interacting individuals or groups.[135]

Thus, ethnic integration encompasses integration into general societal institutions, as well as integration into the "private" institutions of other ethnic groups (or secondary and primary integration, respectively). In theory, processes of ethnic integration are mutual, involving members of different ethnic groups in an exchange of ideas, cultural forms and practices, values or skills. However, Kallen points out that in ethnically stratified societies such as Canada, integration into a society's public institutions tends to be unidirectional in practice:

> access to positions of political, economic, and social power is limited and controlled by established majority ethnic élites. Moreover, the culture and form of public institutions largely represent the historical outgrowths of the ethnocultures and institutions of the dominant ethnic collectivities.[136]

Primary ethnic integration is significantly shaped by existing systems of ethnic stratification as well. Distinctions between ethnic groups in terms of social status, cultural and institutional differences between communities, and processes of group boundary maintenance affect and often limit the nature and extent of interaction between ethnic groups.

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[135] Evelyn Kallen, *Ethnicity and Human Rights in Canada*, second edition (Toronto: Oxford University Press, 1995), 152.

[136] Kallen, *Ethnicity and Human Rights in Canada*, 153.

Based on these observations, Kallen draws chiefly on North American historical experiences to distinguish four models of ethnic integration: fusion of ethnic communities (the melting pot model), federation of ethnic groups (cultural pluralism), absorption of one or more ethnic groups into the dominant one (dominant conformity), and the suppression of minority groups (paternalism). This typology revolves, in essence, around two axes: the relative strength of different ethnic groups, and the maintenance or disappearance of distinctive ethnic communities.[137] Kallen notes that the distinctions among these four models are ideal-typical. Very rarely does a specific society display only one approach to ethnic integration; instead, different approaches (or paradigms) can coexist and overlap. In addition, the relative dominance of any one model is subject to change. Thus, Kallen emphasizes that it

> is important to remember that these conceptual constructs do not exactly correspond with the empirical picture of ethnic integration within any society, at any given time; nor do they exhaust the range of conceptual possibilities. Moreover, the model emphasized in public policies and government legislation in a given society may be discarded, under changing social conditions, for another. The model implicit in majority policy and practice as well as the response of minorities to it may also vary from one ethnic collectivity to another, from one region to another, and/or from one time period to another.[138]

In societies following primarily the ***melting pot*** model, the different ethnic and cultural groups which compose the population of a given country amalgamate into a new cultural community. In this model, social cohesion requires cultural homogeneity. While the melting pot model offers equal rights to all individual members of society, it offers no recognition to groups and does not entrench group rights. There are a number of assumptions which inform this model: first, existing ethnic communities must be able and inclined to discard their distinctiveness. Second, power relations among ethnic groups have to be roughly symmetric, preventing any one group from dominating the others. Third, levels of prejudice and discrimination must be low or non-existent.[139]

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[137] Kallen, *Ethnicity and Human Rights in Canada*, 161. Kallen identifies a total of eight variables defining these models: their societal goals, symmetry/asymmetry of power relations, levels of ethnocentrism, levels of prejudice and discrimination, criteria for social mobility, spheres of ethnocultural distinctiveness, nature of collective identity, and forms of human rights (164-165).

[138] Kallen, *Ethnicity and Human Rights in Canada*, 162-163.

In societies built on the principle of ***cultural pluralism***, ethnic groups maintain their distinctive identities and are seen as bearers of collective rights. Depending on the specific institutional arrangements of a given society, these rights can be enshrined in the public (through institutionalizing economic, cultural or political pluralism) and/or private sphere.[140] Cultural pluralism assumes that ethnic communities are inclined to engage in mutual toleration of difference, "adopt[ing] a *laissez-faire* stance toward ethnocultural collectivities whose values and life ways differ markedly from their own."[141] It circumscribes processes of assimilation by imposing mutually agreed upon limitations on the interaction between ethnic groups. Similar to the melting pot model, cultural pluralism further assumes that inter-ethnic prejudice and discrimination are fairly low, and that power relations between ethnic groups are relatively equal. Consequent on this set of assumptions,

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[139] Kallen, *Ethnicity and Human Rights in Canada*, 167.

[140] Kallen, *Ethnicity and Human Rights in Canada*, 169-170.

[141] Kallen, *Ethnicity and Human Rights in Canada*, 169; italics in the original.

> inter-ethnic relations within the mosaic society would take the form of ethnic segmentation [...]. Each ethnic collectivity would be institutionally complete, and ethnocultural distinctiveness would be maintained through separate ethnic institutions.[142]

Both the melting pot and the cultural pluralism model view the ethnocultural integration as a reciprocal process - the different ethnic and cultural groups amalgamate or accommodate each other. This is more likely if social, economic and political power is distributed equally among these groups. If the distribution of societal power is asymmetric, the process of ethnic integration will tend to become unidirectional; that is, the dominant ethnic and cultural group(s) will set the parameters of integration for subordinate groups.[143] Under these circumstances, two further distinct models of ethnic integration can be identified: in the ***dominant conformity*** model, the subordinate ethnic and cultural groups shed their traditional values, belief systems and behavioural patterns to become fully assimilated into the dominant group. While collective rights are recognized for the dominant group(s), the same does not hold true for ethnic and cultural minorities. Instead, minorities are expected to abandon their distinctive cultures and ethnic identities and to conform to the majority culture.[144] Dominant conformity

> assumes an existing system of ethnic stratification predicated on a highly ethnocentric stance of the established dominant ethnic elite. Majority/minority relations are structured on the assumption of the inherent superiority of established dominant peoples, ethnocultures, and institutions over all others. Given this premise, dominant conformity as a mode of ethnic integration posits

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[142] Kallen, *Ethnicity and Human Rights in Canada*, 169.

[143] Kallen, *Ethnicity and Human Rights in Canada*, 161.

[144] Kallen, *Ethnicity and Human Rights in Canada*, 177-178.

> a total one-way process of acculturation and assimilation whereby all newcomers abandon their alleged inferior original ethnocultures, institutions, and identities in favour of the alleged superior societal and ethnic model posited by the established dominant group.[145]

Dominant conformity thus shares the concern with achieving social and cultural homogeneity that underlies the melting pot model, but does not accept the latter's more egalitarian view of ethnic relations. The dominant ethnic group(s) control the necessary means to impose their language, beliefs or cultural practices on society as a whole. At the same time, the dominant conformity model requires not only that ethnic minority groups be disposed towards abandoning their distinctive cultures and assimilating into that of the dominant group(s), but also that they are able to do so. In consequence, "potential immigrants whose ascribed characteristics (race, physical or mental disability) assume them [*sic*] incapable of adapting to dominant norms are denied entry."[146]

The dominant conformity model differs in important respects from the final approach discussed by Kallen, that of ***paternalism***. Both models assume a hierarchy of ethnic groups, the subordination of ethnic minorities, and a privileged societal position for persons belonging to the dominant ethnic or cultural group. However, while dominant conformity approaches permit and expect minority members to assimilate into the dominant ethnic group, paternalism maintains clear group boundaries. It does so in a manner which clearly sets it apart from the egalitarain logic of cultural pluralism as well: in the paternalist model, the dominant ethnic group perpetuates unequal power relations between ethnic groups and monopolizes societal power. As Kallen observes, in

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[145] Kallen, *Ethnicity and Human Rights in Canada*, 177.

[146] Kallen, *Ethnicity and Human Rights in Canada*, 178.

> a paternalistic relationship the more powerful dominant population is highly ethnocentric: it perceives itself as a superior category of human beings and the less powerful minority population as subhuman [...].In practice, a paternalistic system of ethnic relations is one in which the dominant population takes on the role of an authoritarian father toward his children - the childish minorities.[147]

This authoritarian relationship results in systemic discrimination against and societal marginalization of minorities. Their supposedly childlike nature is seen by the dominant group as an inherent and therefore permanent characteristic of minority groups. In consequence, minorities are perceived as unable to fully assimilate into the dominant culture. While the dominant ethnic group actively pursues the elimination of minority cultures, it does not further the assimilation of minority members. Instead, "[s]trictures on the educational process ensure that minorities do not acquire sufficient knowledge and skills to enable them [to engage in] more than minimal participation in dominant institutions."[148]

2.7 Palmer: theories of assimilation

In his classic comparison of responses to immigration in Canada and the United States,[149] Howard Palmer distinguishes between three theories of assimilation which have, historically and to varying degrees, been applied in both of these countries: Anglo-conformity (supplemented in Canada by Franco-conformity), the melting pot model, and cultural pluralism (or multiculturalism). Like Kallen, Palmer points to the dynamic nature of approaches to ethnic diversity and historical shifts between them. His analysis also demonstrates that different approaches may have been dominant during certain time periods, but did not succeed in monopolizing the entirety of discourse on immigration and assimilation; instead, rival models overlapped and coexisted.

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[147] Kallen, *Ethnicity and Human Rights in Canada*, 180.

[148] Kallen, *Ethnicity and Human Rights in Canada*, 181.

[149] Howard Palmer, "Mosaic versus melting pot?: immigration and ethnicity in Canada and the United States," *International Journal* 31:3 (1976), 488-528.

More importantly, the specific theories of assimilation Palmer discusses closely parallel the models of ethnic integration later identified by Kallen. Given that both Kallen and Palmer draw on Canadian history and Canadian discourse on ethnicity in identifying different types of responses to ethnic diversity, this is perhaps no surprise. It is, however, interesting to note that while three of Kallen's models find an equivalent in Palmer's typology, the latter does not include a theory of assimilation which easily corresponds to Kallen's concept of paternalism. This is presumably due to the fact that Palmer's analysis is concerned exclusively with societal responses to immigrant minorities, and does not examine dominant society's policies or practices regarding indigeneous groups - which is where paternalism has perhaps found its clearest expression. Thus, the case used by Kallen to explore in detail the practice of paternalism is that of Canada's Aboriginal peoples. She concludes that the "outcome of the paternalistic model for ethnic and national identities is very different, in the case of majority as opposed to aboriginal minority populations. For the dominant ethnic collectivity [...] it parallels that of the dominant conformity model [...]."[150]

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[150] Kallen, *Ethnicity and Human Rights in Canada*, 182.

According to Palmer, ***Anglo- and Franco-conformity*** entail "the renunciation of the immigrants' ancestral culture and traditions in favour of the behaviour and values" of the dominant ethnic groups.[151] This model was dominant throughout much of Canada's history. Consequently, immigrants to Canada of non-British and non-French heritage were generally expected to assimilate to the dominant British or French culture of Canada (depending on the specific region where they settled). While British/French dualism was a central fact of Canadian society, there was little or no recognition of other ethnic groups.[152] "Supporters of Anglo-conformity argued that it was the obligation of new arrivals to conform to the institutions of Canadian society - which were already fixed. If the immigrant could not conform, he [*sic*] should be excluded."[153] This view resulted in a hierarchy of preferences regarding the recruitment or admission of immigrants to Canada: while those of British and northern European origin were regarded as desirable because they were expected to assimilate with relatively little difficulty, immigrants from other areas of Europe and the globe were widely seen as unassimilable and, therefore, undesirable.[154]

The ***melting pot*** model dominated immigration discourse in the United States for much of its history but did not enjoy a similar degree of support in Canada, where Anglo-conformity dominated until World War I. However, the supremacy of the Anglo-conformity model began to decline in the 1920s and the melting pot model began to attract substantial support during that era.[155] This model "envisaged a biological merging of settled communities with new immigrant groups and a blending of their cultures into a new Canadian type [...]."[156] Like advocates of the Anglo-conformity model, then, proponents of the melting pot model did not aim at the preservation of ethnic diversity. Rather, they sought to transcend it. However, unlike Anglo-conformity, the melting pot model did not simply expect immigrants to assimilate into the dominant ethnic group. Instead, it envisioned a fusion of all ethnic groups in Canada into a homogeneous Canadian nationality.

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[151] Palmer, "Mosaic versus melting pot?," 489.

[152] Palmer, "Mosaic versus melting pot?," 490-491.

[153] Palmer, "Mosaic versus melting pot?," 494.

[154] Palmer, "Mosaic versus melting pot?," 494.

In marked contrast to both other models, ***cultural pluralism*** does not share the objective of eliminating ethnic difference. Instead, it "postulate[s] the preservation of some aspects of immigrant culture and communal life within the context of Canadian citizenship and political and economic integration into Canadian society."[157] According to Palmer, cultural pluralism (or multiculturalism) first developed in Canada during the 1930s.[158] It began to attract widespread support in the 1960s due to a combination of factors: first, increased assertiveness by second- and third-generation European Canadians of non-northern European origin. Second, increased support for cultural pluralism was, in part, a reaction to French Canadian nationalism. In particular, the increased assertiveness of European Canadians of non-British, non-French origin coincided with and was reinforced by the establishment of the Royal Commission on Bilingualism and Biculturalism in 1963. The Commission was designed to investigate and suggest remedies to the conflictive relations between British and French Canadians. Canada's multiculturalism policy developed in part as a response to the notion of British/French dualism that animated the Commission's mandate, and the perceived relegation of non-British, non-French Canadians to the margins.[159]

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[155] Palmer, "Mosaic versus melting pot?," 502. As noted by Palmer, that support was regionally uneven: "the melting pot was not of course acceptable to French Canadians struggling to maintain their own culture, [but] it did have its advocates in Canada. Some western Canadians found it a congenial vision and ignored the unique status of French Canadians; however, even those western Canadians who argued for the assimilation of French Canadians in western Canada [...] did not seriously question the right of French Canada to maintain its distinctive identity" (*ibid.*, 503-504).

[156] Palmer, "Mosaic versus melting pot?," 489-490.

[157] Palmer, "Mosaic versus melting pot?," 490.

[158] Palmer, "Mosaic versus melting pot?," 508.

2.8 Conclusion

The typologies of responses to ethnic and national diversity outlined above differ significantly in emphasis, approach, conceptual detail and level of abstraction. Some are oriented towards normative evaluations of responses to diversity, for instance, while others are concerned chiefly with the empirical analysis of responses which have actually been applied in different societies throughout history (although the temporal horizon of those analyses differs significantly). Likewise, some of the typologies comprise a broad range of responses to diversity (including responses which seek to eliminate or repress diversity), while others are more narrowly concerned with responses which aim at the entrenchment of recognition in various forms. Despite these differences, the seven typologies share two important commonalities:

(1) While they diverge substantially in terms of concrete terminology and specification

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[159] Palmer, "Mosaic versus melting pot?," 516. See Chapter 6.3 for a more detailed discussion of Canada's multiculturalism policy.

of concepts, there is considerable overlap between all of the typologies regarding the range and kinds of responses to ethnic and national diversity they identify. Thus, it is possible to describe a continuum of approaches ranging from control (elimination, coercion, repression or permanent marginalization of minorities) and neutrality (the relegation of ethnic and national identity to the private sphere) to public recognition of difference in the form of minority rights, formal inclusion of ethnic and national groups in the political decision-making process or self-rule for ethnic and national groups.

(2) These approaches to ethnic and national diversity operate within the framework of state territoriality; they assume that political authority is bounded by territory, and that political space is delimited along territorial lines. Put differently, these responses are concerned with how political authority is organized and whether political space is constituted in a way which reflects ethnic and national diversity, but they do not transcend the demarcation of political space by state territoriality. None of the typologies pays sustained critical attention to conceptions of political space. More specifically, they do not explore the implications of state territoriality for ethnic and national diversity, or for state policies on diversity. With the partial exception of responses to diversity aiming at the establishment of a degree of territorial self-rule for ethnic groups, state territoriality does not constitute an object of examination. State territoriality is not perceived as a central factor in shaping the nature, meaning and limitations of different responses to diversity. Consequently, it fades into the background of analysis as an unproblematic "given." By way of example, the index to Walzer's volume *On Toleration* contains no entries for territory or territoriality. There are intermittent references to territory throughout the text, but there is little discussion of territoriality as an organizing principle of political authority, or of the implications

of state territoriality for ethnic and national identities and power relations.

Kymlicka acknowledges some of the potential implications of an understanding of politics that revolves around the territorial state. He contends, for example, that a

> multination state which accords universal individual rights to all its citizens, regardless of group membership, may appear to be 'neutral' between the various national groups. But in fact it can (and often does) systematically privilege the majority nation in certain fundamental ways - for example, the drawing of internal boundaries; the language of schools, courts, and government services; the choice of public holidays; and the division of legislative powers between central and local governments.[160]

However, the focus of Kymlicka's critique here is the multination state rather than territoriality as a principle for delineating political authority. In addition, while spatial matters are acknowledged throughout *Multicultural Citizenship* (in the guise of national homelands, settlement patterns or boundary definitions for self-governing, autonomous regions), these acknowledgements do not lead into a systematic examination of territoriality. Put differently, Kymlicka does not subject territoriality as a method of delineating political space to sustained debate.

By comparison, Guibernau's study of *Nations without States* examines issues of territoriality in some detail. However, that examination is mostly concerned with the emergence of territorial states and the redefinition of state territoriality in the context of globalization. Guibernau does not systematically explore the implications of state territoriality for state policies on ethnic and national diversity. Similarly, the remaining studies which this chapter investigated in some detail - those of Kallen, Palmer, Schneckener/Senghaas and Smooha - do not engage in a sustained analysis of state territoriality and its role in shaping state policies on ethnic and national diversity.

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[160] Kymlicka, *Multicultural Citizenship*, 51-52.

To the extent that territory *is* being discussed, it is chiefly as a mere object of governance. There is little examination of territoriality as a factor which might be constitutive of ethnic and national diversity, social power relations or political authority. Thus, while interest in issues of space and territory has been slowly growing in nationalism studies over the last few decades,[161] this trend does not appear to have had a noticeable impact on the more specialized literature on ethnic and national diversity. In that field, space and territory continue to go largely unnoticed.

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[161] See, *inter alia*, Jan Penrose, "Nations, states and homelands"; Colin Williams, "Territory, Identity and Language"; Michael Keating, *Nations against the State: The New Politics of Nationalism in Quebec, Catalonia and Scotland* (New York: St. Martin's Press, 1996).

3.

STATE TERRITORIALITY AND THE TERRITORIAL IMAGINATION

As noted in the previous chapter, the literature on societal responses to ethnic and national diversity is largely silent on issues of state territoriality. To the extent that it considers the significance of territory or territoriality at all, it is typically by way of discussing specifically territorial forms of ethnic and national self-government, such as regional autonomy or federalism. These discussions tend to focus on the delineation of particular territories, the powers and status to be assigned to them, and the relationship between different territories. Thus, a substantial part of the literature on Canadian responses to national diversity is concerned with the status of Quebec within Confederation (as agent of a Québécois nation requiring special status, or as one among ten equal provinces) and the powers it, and the other provinces, should wield. More recently, there has been some debate over the boundaries of a post-secession Quebec - specifically over whether an independent Quebec would continue in its present boundaries, or whether it would lose some of its current territory to the rest of Canada.[162]

However, taken as a whole, the literature does not explore the significance of state territoriality as such - that is, it does not consider the impact of state territoriality as one mode of organizing and delineating political authority on the conception, implementation and consequences of different state policies on ethnic and national diversity. This is equally true of responses to diversity that are based on territory (federalism, regional autonomy) and of responses to diversity that seemingly do not obey a territorial logic (such as multiculturalism).

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[162] See, *inter alia*, Richard Janda, *Dual Independence: The Birth of a New Quebec and the Re-birth of Lower Canada* (Montreal: Varia Press, 1999).

The systematic silence on state territoriality is not something that is unique to the literature on ethnic and national diversity. In fact, it permeates most social sciences. Over the last few decades, several critics have pointed out a habit in the social sciences to take territory and state territoriality for granted.[163] According to some, the link between states and territory has become so deeply entrenched, so naturalized, that "until recently, scholars left the issue of territoriality as implicit, a constant like the weather that did not need to be discussed."[164] State territoriality has become so dominant a mode of organizing political authority that it is rarely subjected to analysis.

Scholars have identified a variety of reasons why the dominance of state territoriality did not have the opposite effect of attracting extensive analytical attention: Peter Taylor, for example, points to the linkage between the cultural and political in the idea of the nation-state, while John Agnew and Stuart Corbridge attribute the dominant "assumption of fixed state territoriality" within international relations theory to such factors as the influence of positivism (which sought to reduce international relations to a set of "primitive terms" such as provided by state territoriality), the linkage between state and nation in the concept of the nation-state, and the emergence of separate fields of inquiry in post-WWII political science.[165]

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[163] See, for example, John Gerard Ruggie, "Territoriality and beyond: problematizing modernity in international relations," *International Organization* 47:1 (1993), 139-174; Peter J. Taylor, "The state as container: territoriality in the modern world-system," *Progress in Human Geography* 18:2 (1994), 151-162; Forsberg, "Beyond Sovereignty"; Jacobson, "New Frontiers."

[164] Jacobson, "New Frontiers," 121.

There is, then, nothing unusual about the systematic silence on state territoriality within the literature on ethnic and national diversity. In fact, the premise which this literature is based on - that political space is organized on the model of the contemporary nation-state - is shared by most of the social sciences. The nation-state is thus taken for granted as the central framework of political authority, and responses to ethnic and national diversity are seen to operate within this framework. From this perspective, state territoriality warrants no particular attention in studying responses to ethnic and national diversity; it is simply the stage on which the drama of diversity unfolds.

None of this is to suggest that authors such as Kymlicka, Walzer or Guibernau are unaware of the relative historical novelty of the modern state system and the concept of state territoriality on which it is based. Nor is it meant to imply that they are unaware of the transformations states have historically undergone or are currently undergoing. Clearly, quite the opposite is true. However, their awareness of the nation-state's relative novelty has little impact on their analysis of responses to ethnic and national diversity.

While the literature does not problematize state territoriality as such, its systematic silence on the topic in fact produces a particular view of state territoriality - albeit one that is conveyed through and based on omission rather than explicit articulation. I call this view the "territorial imagination." The concept of a territorial imagination is primarily concerned with the nature and consequences of some of the ideas, beliefs and assumptions about state territoriality that characterize the literature on societal responses to ethnic and national diversity. In particular, the "territorial imagination" consists of four interrelated assumptions: that state territoriality is natural, normal, neutral and immutable. State territoriality is assumed to be natural in the sense that it is not socially constructed. It is assumed to be normal in the sense that it is taken to represent the only possible or practical model of organizing political authority, to the exclusion of rival models. State territoriality [illegible]rther assumed to be neutral in the sense that it is merely the stage on which social relations unfold, including ethnic and national relations. Finally, state territoriality is assumed to be immutable, rather than subject to change.

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[165] Peter J. Taylor, "Embedded statism and the social sciences: opening up to new spaces," *Environment and Planning A* 28 (1996), 1917-1928; John Agnew and Stuart Corbridge, *Mastering Space: Hegemony, territory and international political economy* (London: Routledge, 1995)

In the remainder of this chapter, I aim at sketching an alternative view of state territoriality that emphasizes its significance to the study of state policies on ethnic and national diversity. In this view, state territoriality is neither natural, normal, neutral, nor immutable. Rather, it is socially constructed and historically contingent; just one of many possible models for the organization of political authority (and a relatively recent one at that); the source of power effects with a discernible impact on ethnic and national diversity; and highly malleable. This view draws on three major sources: first, socio-political approaches to human territoriality, especially Robert Sack's highly influential work. That work underlines both the social (rather than biological) nature of human territoriality, and the link between territory and power. Consequently, power emerges as a crucial category in understanding all forms of territoriality.

The second source informing the view of state territoriality developed in this chapter is neo-institutionalism. This theoretical approach is useful for present purposes in several ways: the neo-institutional literature points to the impact of institutions on actor identities, preferences, strategies, as well as the opportunities and constraints social actors face. That literature also emphasizes the role of the state in social and political processes and, by extension, the importance of state territoriality. In addition, neo-institutionalism tends to view the state as an aggregate of heterogeneous agencies and organizations. This view of the state suggests that the meaning of state territoriality is indeterminate; in other words, its concrete implications may differ substantially for different social actors.

Finally, I draw on Laclau and Mouffe's version of discourse theory. This approach provides several insights into the significance of state territoriality for modern society in general, and state policies on ethnic and national diversity in particular. To begin with, conceiving discourse as a partially fixed system of meaning points to the indeterminacy of state territoriality, specifically its historical malleability and potentially contradictory implications. Furthermore, one of the central concepts in Laclau and Mouffe's discourse theory is a modified Gramscian concept of hegemony. This concept is useful to an analysis of state territoriality in at least two respects: in the first instance, it raises questions about the mechanisms behind the naturalization of state territoriality, that is, the historical process by which this particular form of territoriality came to be taken for granted as the natural model for organizing political authority. The concept of hegemony is also useful for exploring whether state territoriality privileges certain social groups and interests and disadvantages others.

In addition, Laclau and Mouffe's version of discourse theory is helpful because it draws on Foucauldian re-conceptions of power as productive rather than merely coercive. It thus opens an analytical window on the role of state territoriality in the production and constitution of social identities, social action, and social meaning more broadly. A Foucauldian view of power as productive complements Sack's view of power as coercive and, in doing so, throws into relief some of the power effects of state territoriality that a "repressive" view of power cannot capture to the same extent.[166]

After offering a brief definition of state territoriality, I will examine each of these three influences in some detail. I will then discuss the theoretical understanding of state territoriality that emerges from the combination of these influences, and will suggest a number of ways in which it challenges the four core assumptions behind the territorial imagination. This understanding of state territoriality will provide the foundation for arguments made in subsequent chapters about the effects of state territoriality, as a particular articulation of public authority, on ethnic and national diversity in Canada.

3.1 Defining state territoriality

On a global, regional and local level, politics is (still) dominated by the modern state. The modern state began to emerge in late-medieval Europe, consolidated in post-Reformation Europe during the sixteenth and seventeenth centuries, and spread across the globe in the following centuries to the point where, at the beginning of the twenty-first century, it has become ubiquitous. Commonly held to have found its clearest expression in the 1648 Peace of Westphalia that ended the Thirty Years' War, the modern state has been famously defined by Max Weber as an organization that successfully claims the monopoly of legitimate physical force in a specific territory.[167] The development of the modern states system thus involved a movement "from parcellization to consolidation, from personalization to institutionalization, and from an aspatial ontology to a territorial one."[168]

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[166] Somewhat ironically, Foucault himself paid little attention to territory and seems to have regarded it as a purely juridical concept, that is, as an instance of repressive power. In his view, territory "is no doubt a geographical notion, but it's first of all a juridico-political one: the area controlled by a certain kind of power" (Michel Foucault, "Questions on Geography," 68).

One of the fundamental characteristics of the modern state, then, is that it is a system of rule based on territory: political authority is conceived in spatial terms, its reach defined and delimited by territory. Taking this observation as a point of departure, the concept of state territoriality, as employed in this dissertation, can be described as composed of two elements: authority and territory. Authority, understood as legitimate power, is a fairly broad and fluid concept. However, the type of authority associated with the modern state is of a particular kind, that of *sovereign* authority.

The concept of sovereignty possesses both internal and external elements. Internally, the idea of sovereignty ascribes to the state the role of supreme power in society; ultimately, all other forms of social organization are subordinate to the state, while the state is subordinate to none of them. Nor does the state share ultimate power with other authorities. The state exercises a monopoly of physical force; in that respect at least, there are supposed to be no power centres within society that provide an alternative or can pose a challenge to the state. The state's sovereignty is universal, that is, it is exercised equally over all residents within its boundaries.

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[167] Max Weber, *Politik als Beruf* (Stuttgart: Philipp Reclam, 1992 [1919]), 6.

[168] James A. Caporaso and Joseph Jupille, "Sovereignty and Territory in the European Union: Transforming the UK Institutional Order," in Christopher K. Ansell and Giuseppe Di Palma, eds., *Restructuring Territoriality: Europe and the United States Compared* (Cambridge: Cambridge University Press, 2004), 67-89, at 68.

Externally, the principle of sovereignty demands that states refrain from interfering in another state's internal affairs. Furthermore, the state controls movement of people and goods across its boundaries. Sovereignty thus posits a clear distinction between domestic and foreign (international or, more precisely, inter-state) politics.

A state's sovereign authority is based on, exercised over, and limited by its territory. In Poggi's pithy observation, "the state does not *have* territory, it *is* territory."[169] Political and geographical spaces are co-extensive in the sense that the reach of a state's authority extends uniformly throughout its territory and ends at the latter's boundaries. Due to the centrality of the state in modern political processes, social identities and interests have, up until recently and in large measure, likewise been bound by territory. In the words of Christopher Ansell, the "principle of territoriality [...] has meant that public authority has been demarcated by discrete boundaries of national territory. But so too has the articulation of societal interests and identities that both buttress and make demands upon this authority."[170]

In addition to sovereign authority, the notion of state territoriality thus revolves around a second core concept: territory.[171] Territory is commonly defined as "an area under the jurisdiction of a city or state; a wide tract of land; an area assigned to a sales person; an area of knowledge."[172] This definition underlines a number of important aspects of territory: first, the usage of "territory" to describe a great range of spatial phenomena; as Robert Sack put it, "[r]ooms, buildings, farms, factories and nation states are all territories and they are also places."[173] Second, the close association of territory's primary meaning with structures of political authority (such as a state or city). Finally, this definition suggests that territory is a concept inextricably bound up with social and political institutions, rather than a concept that is defined simply and exclusively in terms of physical space.

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[169] Gianfranco Poggi, *The State: Its Nature, Development and Prospects* (Stanford, CA: Stanford University Press, 1990), 22; italics in the original.

[170] Christopher K. Ansell, "Restructuring Authority and Territoriality," in Christopher K. Ansell and Giuseppe Di Palma, eds., *Restructuring Territoriality: Europe and the United States Compared* (Cambridge: Cambridge University Press, 2004), 3-18, at 8.

[171] While the notions of sovereignty and territory are central to contemporary states and to the modern states system (the totality of states and the relationships that obtain between them), the modern state also differs from other forms of political organization due to its impersonal nature. The modern state is not identical with any one individual or social group. Instead, it represents an abstract order of political authority

The definition of territory provided above revolves centrally around the notion of a geographical "area." However, implicit in that definition is also the concept of a boundary: territories are not areas that extend unlimited through physical space, but are delimited by more or less precise boundaries. In order to qualify as a "territory," then, an area requires a clear boundary. Without a boundary, there is no territory. In turn, the presence of boundaries suggests

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that is defined by, and where rights and obligations are derived from, legal rules rather than being "tied to property rights, religion, and the claims of traditionally privileged groups such as the nobility"; David Held, "The Development of the Modern State," in Stuart Hall et al., eds., *Modernity: An Introduction to Modern Societies* (Oxford: Blackwell, 1996), 53-89, at 71. Drawing on Weber's distinction between traditional, charismatic and legal-rational forms of rule, Breuer suggests in fact that the hallmark of the modern state is not so much its exercise of sovereignty, but the fact that it bases legitimate rule on legal-rationalism, which implies that obedience is owed to an impersonal legal order. See Stefan Breuer, *Der Staat: Entstehung, Typen, Organisationsstadien* (Reinbek bei Hamburg: Rowohlt, 1998), 161-162.

[172] *Webster's English Dictionary: Concise Edition* (New Lanark, UK: Geddes and Grosset, 1999), 338.

[173] Robert D. Sack, "Territoriality: Geographical," in Neil J. Smelser and Paul B. Baltes, eds., *International Encyclopedia of the Social and Behavioral Sciences*, vol. 23 (Amsterdam etc.: Elsevier, 2001), 15601-15604; at 15603.

that the geographical area contained within them is in some important respects homogenous, for example in a sociological sense or by virtue of being subject to the same, uniformly applied political authority, such as a state.[174]

In addition to area, boundaries and a measure of internal homogeneity, contemporary understandings of territory involve a number of other elements. As David Elkins suggests, three assumptions about territory have underpinned political arrangements in the West over the last three hundred years: exclusivity, continuity and contiguity.[175] The assumption of exclusivity - based on the modern concept of sovereignty discussed above - entails that a territory is subject to a single sovereign, and that there are hence no overlapping or partial claims to political authority within a given territory. Continuity refers to the idea that said sovereign does not possess enclaves within another sovereign's territory that are completely surrounded by the latter, while contiguity denotes that a sovereign's territory forms one compact unit rather than a collection of two or more separate fragments.

By way of summary, then, territory can be defined as a clearly bounded geographical area that is perceived in some sense as internally homogeneous, that is subject to a singular political authority, continuous, and contiguous. The concept of state territoriality revolves around the linkage between territory, thus understood, and the exercise of political authority in the form of sovereignty. Based on this definition, the following sections will outline the theoretical understanding of state territoriality that guides the remainder of this dissertation.

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[174] See Steven Grosby, "Territoriality: the transcendental, primordial feature of moderns societies," *Nations and Nationalism* 1:2 (1995), 143-162; especially 144-147.

[175] David Elkins, *Beyond Sovereignty: Territory and Political Economy in the Twenty-First Century* (Toronto etc.: University of Toronto Press, 1995), 13-14.

3.2 Socio-political approaches to human territoriality

Storey identifies two overarching approaches to human territoriality: those that locate territoriality in "human nature" and see it as instinctive or genetically programmed behaviour, and approaches that stress the social construction and historical contingency of territoriality.[176] The most uncompromising example in the first category is perhaps provided by Ardrey's classic socio-biological study of human territoriality, *The Territorial Imperative*. Ardrey argues that there are no qualitative differences between human territoriality and the territoriality of other animals. Thus,

> [o]wnership of land is scarcely a human invention, as our territorial propensity is something less than a human distinction. Man [...] is as much a territorial animal as is a mockingbird singing in the clear California night. We act as we do for reasons of our evolutionary past, not our cultural present, and our behavior is as much a mark of our species as is the shape of a human thigh bone or the configuration of nerves in a corner of the human brain. If we defend the title to our land or the sovereignty of our country, we do it for reasons no different, no less innate, no less ineradicable, than do lower animals.[177]

In Ardrey's view, territories fulfill a range of different functions for all territorial animals (that is, animals, including humans, that claim possession of specific stretches of land and defend them against other members of their species): they provide resources, security, identity, and stimulation

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[176] David Storey, *Territory: The Claiming of Space* (Harlow etc.: Prentice Hall, 2001), chapter 2.

[177] Robert Ardrey, *The Territorial Imperative: A Personal Inquiry into the Animal Origins of Property and Nations* (New York etc.: Kodansha International, 1997 [1966]), 4-5.

(through border skirmishes).[178] Territoriality, in essence, proved beneficial to survival in some species, including humans. Consequently, it has become ingrained in "human nature" by evolutionary processes; human territoriality is thus rooted in instincts or genetic programming, rather than in social or cultural conventions.

It should be noted that Ardrey concedes that the territorial imperative in humans is an open instinct - which he defines as "a combination in varying portion of genetic design and relevant experience"[179] - rather than a closed instinct which would fully determine attitudes to and concepts of territory. Thus, Ardrey observes that the "disposition to possess a territory is innate. The command to defend it is likewise innate. But its position and borders will be learned. And if one shares it with a mate or a group, one learns likewise whom to tolerate, whom to expel."[180] Open instincts, Ardrey suggests, are common to higher animals; in fact, as "we proceed higher and higher in the animal orders, the closed instinct all but vanishes, the open instinct incorporates more and more a learned portion. In man it reaches a maximum of learning, a minimum of design."[181]

However, Ardrey's study does not examine the concept or significance of experience, learned behaviour and culture in any detail. More to the point, and notwithstanding Ardrey's emphasis on open instincts, he clearly envisions culture, learning and experience to be of ultimately limited overall importance: "no matter how open the instinct, no matter how much learning is incorporated into the completed pattern, the total influence on individual behavior will proceed with very nearly the form of a closed program directing an insect in the heart of an oak. It remains an instinct."[182] Moreover, Ardrey maintains that the "capacity to fill out with learning a behavioral pattern of innate design seems in itself somehow to be related to instinct."[183]

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[178] Ardrey, *The Territorial Imperative*, 5.

[179] Ardrey, *The Territorial Imperative*, 26.

[180] Ardrey, *The Territorial Imperative*, 24.

[181] Ardrey, *The Territorial Imperative*, 26.

The socio-biological view of human territoriality has been criticized from a number of angles.[184] First, it has been characterized as "bad science" on a number of grounds (failure by its proponents to provide sufficient evidence for their arguments, selective usage of examples, and logical leaps in drawing conclusions about human behaviour from animal behaviour). Second, it has been argued that widespread territorial behaviour in humans is not sufficient to indicate that territoriality is ingrained in "human nature." As Storey puts it, it "might just as easily be seen as proof that we are all conditioned in broadly similar ways."[185] He points out that a number of scholars have questioned the validity of the biological/social or nature/nurture distinction which underlies socio-biological conceptions of human territoriality. Third, socio-biological approaches have been chastised for their ideological bent - for example, their naturalization of aggression against "others," as well as notions of private property.

Fourth, the socio-biological view has been subjected to critique due to its reliance on the concept of "instinct" as an explanatory variable. According to Duchacek, the "instinctive theory of territoriality cannot explain human rationality and ambitions that may result in either giving up one's own territory or, on the contrary, acquiring more of it than one needs."[186] Duchacek also points to the ability of humans to form alliances of territorial communities as a factor that sets their territorial behaviour apart from that of other animals. Fifth, socio-biological approaches to territoriality have been criticized for neglecting to examine whether all the functions they attribute to territoriality are in actuality provided by all forms of territoriality, and what qualities inherent in territoriality allow it to provide those functions in the first place.[187]

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[182] Ardrey, *The Territorial Imperative*, 26.

[183] Ardrey, *The Territorial Imperative*, 25.

[184] See Storey, *Territory*, 12-13, for a summary of the first three points.

[185] Storey, *Territory*, 12.

To these criticisms, one might add that socio-biological approaches fail to account for the social construction of as central a notion as "security," instead taking its meaning as a given. Furthermore, the socio-biological approach espoused by Ardrey fails to clearly differentiate between different levels of "territory" or "space" and thus does not allow for the possibility that spatial or territorial behaviour in humans may differ substantially depending on its referent. In this context, it may be fruitful to recall Altman's distinction between primary, secondary and public territories (all of which denote a relatively fixed geographical area), on one hand, and personal space (which does not) on the other.[188] Finally, Ardrey operates with a static view of territory. In his view, a "territory is an area of space, whether of water or earth or air, which an animal or a group of animals defends as an exclusive preserve."[189] While Ardrey fails to investigate whether human territoriality may assume different forms, the historical record seems to indicate that human notions of "territory" are far from stable and can change considerably depending on spatial and temporal context.

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[186] Ivo D. Duchacek, *The Territorial Dimension of Politics: Within, Among, and Across Nations* (Boulder/London: Westview Press, 1986), 22.

[187] Robert Sack, "Territorial bases of power," in A.D. Burnett and P.J. Taylor, eds., *Political studies from spatial perspectives: Anglo-American Essays on Political Geography* (Chichester etc.: John Wiley, 1981), 53-71, at 61.

[188] Irwin Altman, *The Environment and Social Behavior: Privacy, Personal Space, Territory, Crowding* (Monterey, CA: Brooks/Cole, 1975). According to Altman, "[p]rimary territories are owned and used exclusively by individuals or groups, are clearly identified as theirs by others, are controlled on a relatively permanent basis, and are central to the day-to-day lives of the occupants" (112), while secondary territories "are less central, pervasive and exclusive" (114) and public territories "have a temporary quality, and almost anyone has free access and occupancy rights" (118).

Socio-political approaches can, in a sense, be said to turn Ardrey on his head: while approaches in this category differ from each other, all of them accord preeminence to social and cultural factors in understanding and explaining territoriality. From this perspective, then, humans act the way they do not because of their evolutionary past, but (primarily) because of their cultural present. For example, Soja does not discount the possible significance of instincts and genetic programming in explaining human territoriality, but casts doubt on theoretical usages of territoriality which assume it to be an undifferentiated category. In particular, he cautions against a theoretical conflation of different kinds of territoriality, noting fundamental differences between "primitive" and "cultural" forms of territoriality:

> Only when human society began to increase significantly in scale and complexity did territoriality reassert itself as a powerful behavioral and organizational phenomenon. But this was a cultural and symbolic territoriality, not the primitive territoriality of the primates and other animals. [...] Thus, although 'cultural' territoriality fundamentally begins with the origins of the cultured primate, man, it achieves a central prominence in society only with the emergence of the state. And it probably attains its fullest flowering as an organizational basis for society in the formally structured, rigidly compartmentalized, and fiercely defended nation-state system of the present day.[190]

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[189] Ardrey, *The Territorial Imperative*, 3.

[190] Edward Soja, *The Political Organization of Space* (Washington, DC: Association of American Geographers, 1971), 30.

The most influential theory of territoriality within the socio-political category has been Robert Sack's. Sack emphasizes that "territoriality is imbedded in social relations. Territoriality is always socially constructed."[191] Sack essentially portrays territoriality as a strategy to control behaviour through spatial mechanisms. More precisely, he defines territoriality as "*the attempt by an individual or group to affect, influence, or control people, phenomena, and relationships, by delimiting and asserting control over a geographic area*"[192] - that area being a territory. The core concept of territoriality, according to this view, is not control over an area, but the strategic use of an area for the purpose of controlling the behaviour of others.[193] Sack further argues that forms of territory may differ substantially in a number of respects, regarding, for example, how tightly behavioural control is being implemented, which kinds of actions are permitted or expected within specific territories, and the extent to which they determine or circumscribe actions.[194]

According to Sack, territoriality involves a classification by area rather than type; for example, access to and usage of certain items may be regulated not by the type of item, but by its location. Due to its control function, territoriality further involves communication (for example by means of boundary markers) and attempts at "enforcing control over access to the area and to things within it, or to things outside of it by restraining those within."[195] Power, then, is of central importance in defining and understanding territory. Indeed, "[h]uman spatial relations are the results of influence and power. Territoriality is the primary spatial form power takes."[196]

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[191] Robert Sack, *Human territoriality: Its theory and history*, Cambridge Studies in Historical Geography 7 (Cambridge etc.: Cambridge University Press, 1986), 26.

[192] Sack, *Human territoriality*, 19; emphases in the original. See also Sack, "Territorial bases," 55.

[193] Sack, "Territorial bases," 59-61.

[194] Sack, "Territorial bases," 58.

[195] Sack, *Human territoriality*, 22.

3.3 Neo-institutionalism

Territoriality has been described as one of the foundational institutions of the contemporary states system. As an institution, it can be seen as composed of patterned practices, ideas and beliefs, and norms.[197] This reading of territoriality as an institution not only adds an ideational element to the strategic definition of territoriality offered by Sack, but also suggests that an analysis of state territoriality and its implications for policies on ethnic and national diversity can usefully draw on theoretical traditions concerned with the role of institutions in society, in particular neo-institutionalism.

While neo-institutionalism does not constitute a unified paradigm any more than, for example, Marxism, neo-institutionalists share a basic conviction that institutional design is relevant to policy output.[198] For example, institutions play a critical role in policy-making by defining "decision rules" and "boundary rules." Boundary rules define which claims are seen as legitimately political, who qualifies as a political actor, which strategies those actors can pursue, which societal interests are privileged over others in political decision-making, and which policies are relevant to certain actors. In short, they establish policy communities. Decision-rules define how decisions are arrived at (through negotiation and consensus, majoritarian processes, hierarchical fiat, and so on).[199]

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[196] Sack, *Human territoriality*, 26.

[197] Kalevi J. Holsti, *Taming the Sovereigns: Institutional Change in International Politics*, Cambridge Studies in International Relations 94 (Cambridge: Cambridge University Press, 2004), 21-22.

[198] The belief that institutions matter has been referred to as the central "institutionalist tenet"; see Jan-Erik Lane and Svante Ersson, *The New Institutional Politics: Performance and Outcomes* (London/ New York: Routledge, 2000).

Institutions consequently exercise influence not only over *how* policies are made, but also *which* policies are made. Neo-institutional analysis is primarily concerned with analyzing just how policy is influenced by institutions, and whether institutional change necessarily results in policy change. One of the central concepts (if not *the* central concept) employed in neo-institutional analysis, then, and one of the major points of contention between different schools within neo-institutionalism, is (unsurprisingly) the notion of an "institution." For present purposes, the distinction between rational choice and sociological neo-institutionalists is of particular relevance.

To rational choice neo-institutionalists, institutions are a set of behavioural rules that constrain possible policy outcomes through (1) their internal structure, (2) limiting the number of access points to the decision-making process, and (3) facilitating or constraining the formation of specific alliances among interests. In this "thin" conception (to borrow a term from Lane and Ersson),[200] institutions are analytically distinct from other factors that shape individual behaviour, such as interests, preferences, or information. They are little more than procedural mechanisms that channel pre-existing individual preferences into policy-making processes.

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[199] See Michael M. Atkinson, ed., *Governing Canada: Institutions and Public Policy* (Toronto: Harcourt Brace, 1993).

[200] For the distinction between "thin" and "thick" conceptions of institutions, see Lane/ Ersson, *The New Institutional Politics*, 4.

Sociological neo-institutionalism, on the other hand, subscribes to a "thick" conception of institutions as rules, practices, and meanings. Scholars operating within this approach emphasize the creative side of institutions, arguing that institutions play a crucial part in the construction of social reality and politics.[201] "The sociological version of the new institutionalism looks upon institutions as something more than constraints on choices. The identities and conceptions of the actors, perhaps even the notion of an actor itself, are formed by the institutional structures."[202] Rather than acting in a purely constraining fashion or merely channeling individual preferences, institutions have a significant impact on the very formation of those preferences.

Both rational choice and sociological currents within neo-institutionalism can provide useful insights into the significance of state territoriality for contemporary society and politics: the former because it directs our attention to the constitutive role of power in the formation of territoriality (as Atkinson contends, the focus of rational choice neo-institutionalism, while problematic in some respects, does have the positive effect of showing "that institutions are congealed power relationships"[203]), the latter because it suggests that state territoriality itself has a formative influence on actor identities, preferences, objectives and strategies (Atkinson distills the creative side of institutions to the observation that the relationship between actors and institutions is not "simply a matter of humans creating institutions; institutions also create humans"[204]).

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[201] See, for example, William D. Coleman and Grace Skogstad, "Introduction," in Coleman and Skogstad, eds., *Policy Communities and Public Policy in Canada: A Structural Approach* (Mississauga: Copp Clark Pitman, 1990), 1-13.

[202] Lane/ Ersson, *The New Institutional Politics*, 31.

[203] Atkinson, "Public Policy and the New Institutionalism," in Atkinson, ed., *Governing Canada*, 17-45, at 30.

As an institution, then, state territoriality matters because it is based on specific power relations, and because it influences the production of social actors and social action. This implies several things about the impact of state territoriality on ethnic and national diversity: first, that state territoriality may in some contexts serve to promote the interests of a specific ethnic or national group, and be detrimental to the interests of another group. Second, state territoriality serves to orientate, define and limit the behaviour and aspirations of ethnic and national groups. This is clearly evident in the pursuit of statehood or other forms of territorial self-government by many national movements. Third, state territoriality provides uneven symbolic and material resources to ethnic and national groups; for example, some groups may be able to exercise control over a territory, others may not. Similarly, a given territory may be construed as principally the possession of a specific national, ethnic, cultural or racial group, to the exclusion of other groups.

In addition to accentuating the centrality of institutions to social and political processes, neo-institutionalism can further our understanding of state territoriality in another respect: it tends to emphasize the importance of a specific institution, the state. Neo-institutionalists typically conceive of the state as one of the central institutions in modern society, and accordingly, the last two decades have witnessed a sustained effort by neo-institutionalist theorists to "bring the state back" into political science analysis.[205] The project of recovering the state for social science analysis is prominently associated with Theda Skocpol and Eric Nordlinger, among others. Both writers stress the existence of interests which are specific to states and do not simply reflect interests within society. These interests originate, for example, in the state's need for the maintenance of order within society, its embeddedness in an international system marked by inter-state competition and power struggles, and from the socialization of state "personnel" or elites into coherent groups sharing a specific "statist ideology" (that is, a specific outlook on the state and its role in society).

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[204] Atkinson, "Public Policy," 26.

[205] That oft-repeated phrase is borrowed from one of the seminal texts of neo-institutionalism, Peter B. Evans, Dietrich Rueschemeyer and Theda Skocpol, eds., *Bringing the State Back In* (Cambridge: Cambridge University Press, 1985).

Moreover, neo-institutionalists emphasize the state's potential to act autonomously on the basis of these interests, even if the latter are opposed to the interests of the dominant social groups. State autonomy can vary over time and across policy areas with the occurrence of crises, changes in structural potentials of the state and the capacity of other actors. In addition to the state's capacity to act independently from societal input, it also plays a role in creating that input in the first place, since state organization and action has an impact on political culture, group formation and definition or articulation of political issues - it might, for example, provide superior access to state institutions for particular social groups.

While claims of neo-institutionalists that they brought the state "back in" have to be assessed critically,[206] their analysis of the state differs considerably from society-centred approaches in that state institutions and state processes themselves are the primary focus of analysis. The state's autonomy from social groups should certainly not be exaggerated, but at the same time, state actions should not be seen as merely derivative of societal interests. As neo-institutionalists have pointed out, in some instances state actions might actually contravene dominant societal interests or groups. Moreover, the state has a considerable impact on the construction, meaning, consequences and maintenance of social categories such as race, class or gender.

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[206] Gabriel Almond, for example, famously suggested that the state never left political analysis. It certainly attracted sustained attention in Marxist analysis, and while much of that analysis obeyed the logic of economic reductionism, this is not true in all instances. Both Miliband and Poulantzas argued against economic reductionism. In a sense, their's would be a more legitimate claim to having the state brought "back in," a claim that is further strengthened if one considers that the differences between a neo-institutionalist conception of "relative autonomy" and Poulantzas's conception of the same category are rather slight.

In this context, it is crucial to note that neo-institutionalists do not perceive the state as internally homogeneous. In fact, neo-institutionalists often call for analytically "disaggregating" the state, seeing it as a composite of a multitude of (sometimes competing) actors and agencies.[207] This disaggregate view of the state has the important theoretical consequence that a state's autonomy from social interest and its capacity to implement policies designed to meet its objectives can be expected to vary across agencies and policy fields. In addition, different state agencies may pursue different and contradictory policy objectives.

Much of neo-institutionalist analysis, then, directs our attention to the central role of the state in modernity and its intersection with society and social interests. This analytic move also highlights the importance of state territoriality - as part and parcel of the modern state - for contemporary society and politics. The modern state cannot be thought without state territoriality: its functions, resources, and legitimizing strategies are inextricably bound up with that notion. Moreover, the neo-institutionalist view of state autonomy and capacity as highly context-dependent suggests that the state intersects with society in an uneven manner. Specifically, different groups will enjoy significantly different relationships with the state. Extending this view to state territoriality as one of the core elements of the modern state, groups can be expected to enjoy differing relationships to state territoriality; in other words, the impact of state territoriality on social groups is highly context-dependent.

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[207] See, *inter alia*, William D. Coleman and Grace Skogstad, "Policy Communities and Policy Networks: A Structural Approach," in Coleman and Skogstad, eds., *Policy Communities*, 14-33.

3.4 Discourse theory

In addition to socio-political approaches to human territoriality and neo-institutionalism, my theoretical understanding of state territoriality is based on a third body of thought: Laclau and Mouffe's version of discourse theory.[208] Their conception of power in a Foucauldian tradition further reinforces the notion that state territoriality, while certainly playing a coercive role, is also productive of social identities. In addition, Laclau and Mouffe's conception of the social in discursive terms points to the indeterminate and highly contingent nature of state territoriality.

The most fundamental category in Laclau and Mouffe's thought is arguably that of discourse. Discourse is often understood to refer to the linguistic or symbolic order of society. In contrast, Laclau and Mouffe draw no distinction between discursive and non-discursive dimensions of society: all facets of the social are discursive in nature. Put differently, discourse is not something that is separate from social reality - it is not, for example, a conglomerate of "speech acts" about a reality that is external to it. Discourse can be understood as a system of organized meaning, but it is not a symbolic order that is external to a social reality conceived as material. Instead, social reality is, in its entirety, constituted by discourse. This is not to deny that there is a material reality. In fact, Laclau and Mouffe emphasize that discourse, in their understanding of the term, does have a material side. As Mouffe puts it, discourse is "composed of practices, institutions, discourse [*sic*]; it is something that is very material."[209] Discourse is not simply a matter of language; rather, it is akin to Wittgenstein's "language games" in that it comprises both ideas and material practice. In an oft-quoted passage, Laclau and Mouffe argue that the

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[208] See especially Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics* (London: Verso, 1985). Anna Marie Smith, *Laclau and Mouffe: The Radical Democratic Imaginary* (London/ New York: Routledge, 1998) and Louise Phillips and Marianne W. Jørgensen, *Discourse Analysis as Theory and Method* (London: Sage, 2002), in particular chapter 2, offer excellent critical introductions to the work of Laclau and Mouffe.

> fact that every object is constituted as an object of discourse has *nothing to do* with whether there is a world external to thought, or with the realism/idealism opposition. An earthquake or the falling of a brick is an event that certainly exists, in the sense that it occurs here and now, independently of my will. But whether their specificity as objects is constructed in terms of 'natural phenomena' or 'expressions of the wrath of God', depends on the structuring of a discursive field. What is denied is not that such objects exist externally to thought, but the rather different assertion that they could constitute themselves as objects outside any discursive condition of emergence.[210]

Put differently, how we understand material reality is always structured by discourse, that is, the system of meaning we bring to bear on material reality; we cannot apprehend material reality outside discourse.

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[209] In Lynn Worsham and Gary A. Olson, "Rethinking Political Community: Chantal Mouffe's Liberal Socialism" (interview with Chantal Mouffe), in Gary A. Olson and Lynn Worsham, eds., *Race, Rhetoric, and the Postcolonial* (New York: SUNY, 1999), 165-201, at 200.

[210] Laclau and Mouffe, *Hegemony and Socialist Strategy*, 108; emphasis in the original.

Discourses emerge through articulation, that is, the fixation of specific elements (practices, institutions, ideas and so on) in a differential system of meaning. Laclau and Mouffe refer to those elements articulated with one another in the context of a specific discourse as the "moments" of that discourse. These moments do not possess meaning independently from the discourse as a whole. In fact, their meaning derives largely from the position of difference they occupy with regards to other moments within the discourse. In other words, it is through their location in a specific discourse that the meaning of moments becomes fixed. To illustrate, the notions of power, legitimacy, area and nation can be seen as elements, as raw material for discourse. Articulated with one another (and additional elements) in a specific fashion, they engender the discourse of the nation-state. Power, legitimacy, area and nation, as moments of this nation-state discourse, derive at least part of their meaning from their location in this discourse relative to one another. In other words, the concrete social meaning attached to these notions depends on their position within a discourse, and the nature of their interaction with other moments in that discourse.

Crucially, Laclau and Mouffe contend that the nature of discourses and the relationship between different discourses is not subject to a logic of determination, in the final instance or otherwise. There is no one discourse that serves as the foundation, as the singular point of derivation, for other discourses. Class, for example, while a historically significant discourse, is not a foundational one. It does not reflect or constitute a deeper social reality than other discourses (such as race or gender). Like other discourses, it emerges through articulation, and like other discourses, it could in principle be constituted differently or cease to exist if its moments are disarticulated.

This last point is especially significant since elements do have more than one potential meaning. The meaning of "rock" differs substantially, for instance, depending on whether we speak of a lump of granite, assert that a person is a "rock" to others, or advertise a product as guaranteeing "rock-hard abs" with a minimum of effort. In attempting to fix the meaning of elements, discourses exclude a multiplicity of other potential meanings. This "surplus of meaning" constitutes what Laclau and Mouffe refer to as the "field of discursivity"; in essence, this field is the residue of alternative meanings excluded from a given discourse. Since alternative meanings cannot simply be eradicated, discourses are inherently unstable; their fixation of meaning can only be partial and temporary. The field of discursivity harbours the potential for challenging, upsetting and undermining existing discourses through constructing competing discourses vying for dominance over the same terrain. For example, an individual may, within the context of a discourse of race, be primarily constructed as a member of a specific racial group. At the same time, competing discourses may describe that individual as primarily a male, primarily a member of the working class, or primarily heterosexual.

In attempting to fix the meaning of elements into specific moments, discourses that criss-cross the same terrain of elements will thus come into conflict with one another. A discourse can be said to have achieved hegemonic status when it has displaced competing discourses and absorbed the contested elements into a dominant system of meaning. In this sense, a discourse is hegemonic when its articulation of elements into specific moments prevails over competing articulations of the same elements. It is in this context that Laclau and Mouffe make use of a modified Gramscian concept of hegemony.

According to Boggs, the impetus for Gramsci's theoretical undertaking was the fact that the proletarian revolution predicted by orthodox Marxism had not occurred in Western countries.[211] Gramsci's explanation for this phenomenon revolves in part around the question of subjectivity, specifically around his notion of hegemony. In order to analyze this concept, it is necessary to first briefly examine Gramsci's understanding of politics. Political life, according to Gramsci, comprises two fundamental aspects which are analytically distinct but interrelated in practice: coercion and consent. Ultimately, both aspects revolve around the central question of class rule, that is, the installation, maintenance or contestation of the dominant position of a specific social class (this shared "function" of coercion and consent accounts for their interrelatedness in practice).

The overlap between force and consent becomes apparent in Gramsci's treatment of the state. As Showstack Sassoon points out,[212] Gramsci operates with two distinct concepts of the state: first, a narrow politico-juridical definition (the state as the politico-administrative apparatus); second, an integral definition conceptualizing the state as including "elements which need to be referred back to the notion of civil society (in the sense that one might say that State = political society + civil society, in other words hegemony protected by the armour of coercion."[213] Here, the state is not merely the instrument of coercion. Rather, it has a whole array of functions designed to maintain the dominant position of the ruling class. This is captured in Gramsci's notion of the ethical State which, primarily through law and education, instills certain concepts of social reality and certain modes of behaviour in the general population which correspond to the needs of the ruling class.[214] Thus, the state fulfills functions of hegemony as well as domination.

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[211] Carl Boggs, *The Two Revolutions: Gramsci and the Dilemmas of Western Marxism* (Boston: South End Press, 1984).

[212] Anne Showstack Sassoon, *Gramsci's Politics*, second edition (Minneapolis: University of Minnesota Press, 1987).

[213] Antonio Gramsci, *Selections from the Prison Notebooks*, ed. and translated by Quintin Hoare and Geoffrey Nowell Smith (New York: International Publishers, 1971), 263.

In the Gramscian sense, hegemony is a form of political control that differs from, and is more effective than, simple domination (the deployment of physical force). It refers to the suffusion of the general culture with the values, concepts and ideology of the ruling class, so that existing norms and social structures become naturalized. Hegemony requires that the ruling class be able to portray its outlook as informed not just by particular interests alone, but as a viable project for society as a whole - or at least for a number of social groups which can, on the basis of this project, be recruited as allies of the dominant class.[215] Together with its allies, the latter forms a historical bloc, that is, a ruling coalition animated by a particular world-view.

The challenge for the leaders of the subordinate social classes, then, is not simply a direct attack on the coercive apparatus of the state, as a military success alone would not guarantee lasting victory. In Western countries, the state is "only an outer ditch, behind which there stood a powerful system of fortresses and earthworks"[216] within civil society which stabilized the dominance of the ruling classes. To overthrow the ruling coalition, the principal subordinate class (the proletariat) needs instead to construct an alternative hegemonic project for society which is able to attract the support of other social groups. This process is facilitated by the fact that hegemony is never complete, since "any situation is a product of all the forces in the field, not just the dominant forces"[217] and therefore harbours the potential for radical transformation.

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[214] Gramsci, *Selections*, 258. See also Gramsci's description of the state as "the instrument for conforming civil society to the economic structure" (*ibid.*, 208).

[215] In other words, the principal class must transcend its immediate economic-corporative interests and compromise with the interests of potential allies; see Gramsci, *Selections*, 148.

[216] Gramsci, *Selections*, 238.

Laclau and Mouffe's concept of hegemony is deeply indebted to Gramsci. However, they differ from Gramsci's reading of hegemony in one crucial respect: according to Gramsci, classes and class relations, while part of the superstructure, also do have an objective material existence. Individuals belong to a class, whether they are aware of the fact or not. Laclau and Mouffe take issue with this position; they

> radicalise Gramsci's theory by abolishing the objectivism or essentialism that is still to be found here. For Laclau and Mouffe, there are no objective laws that divide society into particular groups; the groups that exist are always created in political, discursive processes. That does not mean that Laclau and Mouffe turn the base/superstructure model of historical materialism on its head and claim that discourses determine the economy. In their theory of the social, they override Marxist essentialism by fusing the two categories - base and superstructure - into one field produced by the same discursive processes.[218]

Clearly, then, the question which discourses emerge as hegemonic is an eminently political one. In fact, discourses themselves are political artefacts, in that they involve struggles over meaning in a contested terrain. Discourses include, exclude, shape and define how we apprehend and interact with social reality. They are products of and vehicles for the exercise of power. This suggests that power - a category established above as central to understanding state territoriality - is not simply coercive. It is also productive, in the sense that it produces categories of thinking and specific patterns of behaviour.

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[217] Sassoon, *Gramsci's Politics*, 211.

[218] Phillips/Jørgensen, *Discourse Analysis*, 33.

Laclau and Mouffe's understanding of power is shaped to a large extent by their encounter with Foucault. Criticizing a focus on the repressive side of power, Foucault argues that power is not just repressive, but also "productive": it constitutes and shapes social structures, practices and identity. "If power were never anything but repressive," Foucault asks,

> if it never did anything but to say no, do you really think one would be brought to obey it? What makes power hold good, what makes it accepted, is simply the fact that it doesn't only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse. It needs to be considered as a productive network which runs through the whole social body, much more than as a negative instance whose function is repression.[219]

In this understanding, power is not a commodity that groups or individuals can acquire, increase or decrease. Instead, power suffuses society - it is omnipresent. Individuals and groups, rather than simply wielding power, are a product of power.

What is the upshot of Laclau and Mouffe's approach to discourse, hegemony and power for a conceptualization of state territoriality? First, as a discourse, state territoriality is the product of and a vehicle for the exercise of power. It is inextricably linked with social power relations. Second, state-territoriality-as-power is not simply repressive. It does not exhaust itself in determining, for example, that a certain class of individuals cannot enter a given territory, may not reside in a certain area once they have entered, or may not follow certain practices while present in that territory. It also produces group identities, power relations between groups, and resources that groups can deploy in political struggles.

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[219] Michel Foucault, "Truth and Power," in *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977*, ed. Colin Gordon (New York: Pantheon Books, 1980),109-133, at 119.

This "productive" reading of power contrasts with the understanding of power that underlies socio-political approaches to human territoriality: while the latter stress the nexus between power and territory, they tend to conceive of power exclusively in terms of control, emphasizing its coercive side. Coercion clearly is crucial to understanding territoriality, but an exclusive focus on the coercive side of power does not capture the entirety of power effects produced by different historical models of organizing political space, including the model of state territoriality. The organization of political space also has constitutive implications for social identities and power relations. In a nutshell, then, the contemporary organization of political space along territorial lines not only serves to control the movement of bodies in geographical space and their access to resources, it also has significant implications for the way those bodies and political space itself are conceived and conceptualized.

The third implication of Laclau and Mouffe's variant of discourse theory is that the concrete meaning of state territoriality is indeterminate: it depends on its discursive articulation with moments other than just sovereignty, authority, or territory. Fourth, and by extension, the concrete meaning of state territoriality can vary significantly (and has varied historically) depending on the nature of its articulation with such notions as race, nation, dynastic rule, or globalization. On a fifth and similar note, the concrete meaning of state territoriality may differ significantly depending on the social actors, groups or identities it articulates with.

Sixth, if state territoriality is seen as part of a hegemonic discourse of political authority, this raises the question whether it has differential power effects - in other words, whether conceiving of political authority in territorial terms is beneficial to some social groups and interests and detrimental to others. The answer seems to be that it does: perhaps most obviously, conceiving political authority in territorial terms privileges groups that can effectively command an identifiable territory. Groups that are widely dispersed or do not have sufficient resources to exercise control over the territory where they reside are at a structural disadvantage.

Seventh, conceiving of state territoriality as a hegemonic discourse of political authority likewise opens a theoretical perspective on its historical contingency. Political authority can and has been articulated in forms that are radically different from state territoriality in its various guises. As pointed out earlier, however, the discourse of state territoriality has become so firmly entrenched in modern societies that it has become naturalized. Its contingent nature has been largely eradicated from political consciousness and much of social science analysis. This points to the final implication of Laclau and Mouffe's thought for the theorization of state territoriality: it directs analytical attention to the mechanisms which produce (and reproduce) state territoriality as the "natural," taken for granted model of political authority.

3.5 State territoriality beyond the territorial imagination

Taken together, the implications of socio-political approaches to human territoriality, neo-institutionalism, and discourse theory in the Laclau/ Mouffe tradition, suggest a reading of state territoriality that is radically different from, and in many ways diametrically opposed to, that of the territorial imagination. To reiterate, the territorial imagination rests on four assumptions: that state territoriality is natural, normal, neutral and immutable. These four assumptions (moments, if you will) of the territorial imagination are inextricably interrelated. For example, the literature on responses to ethnic and national diversity - more by neglect than by design - portrays state territoriality as the natural model of political authority. The social contingency of state territoriality is erased from analysis, and in consequence, there is no systematic discussion of its power effects. In this way, the portrayal of state territoriality as natural, perhaps unavoidably, reinforces the assumption (again unvoiced) that is has no power effects. Similarly, the portrayal of state territoriality as natural blends out alternative ways of conceiving of political authority, and thus contributes to the normalization of state territoriality - that is, the quasi-monopolistic position enjoyed by state territoriality in the figurative market of political authority models.

Moreover, the naturalization of state territoriality operates in a doubly reductive manner: the territorial imagination tends not only to reduce the range of possible models of political authority to state territoriality; by assuming state territoriality as an unproblematic given, it also erases substantial differences that obtain between different forms of state territoriality. Thus rendering state territoriality immutable does, in turn, make it difficult to pay systematic attention to its articulation with other discourses (for example, the discourse of the dynastic state, that of the nation-state in the context of imperialism and colonialism, or that of the nation-state after the Cold War and under conditions of globalization). Since the concrete implications of state territoriality for ethnic and national diversity can reasonably be expected to differ depending on its historical articulation with those discourses, portraying state territoriality as immutable further decreases sensitivity to its power effects.

By way of contrast to the territorial imagination, the perspective emerging from the combination of the three approaches discussed above - a perspective that, for lack of a better term, could be termed discursive-institutionalist - suggests that state territoriality (1) is not natural, but a socially and historically contingent construction of political authority; (2) is not normal, in the sense that it is not the only available model for the organization of political authority, but simply one among many competing models; (3) is not neutral, but instead has significant and differential power effects on actor identities, objectives, strategies, and resources, and is itself a product of power and power relations; is, finally, (4) not immutable, but highly malleable and subject to considerable change depending on social and historical context. The following section will discuss each of these propositions in greater detail.

First, the assumption that state territoriality is natural. The modern state, and state territoriality with it, has become deeply entrenched as the dominant organizing principle of political authority. It suffuses current understandings of politics to the point where it is simply taken for granted. As James Caporaso puts it, "[o]ur modern understanding of society and politics, and related concepts of citizenship, nationalism, political development, and the franchise, are thoroughly conditioned by the overarching framework of the territorial state."[220] States are held to cover or lay claim to the entire land surface of the globe, and global politics is commonly defined in terms of a state system that comprises the totality of states and the relations between them.

It is, of course, open to debate whether the idea of a states system that spans the entire globe adequately describes actual social and political realities in their entirety. There is, for example, a growing interest in and literature on so-called "failed states" - states that, for a variety of different reasons, have not succeeded in imposing a monopoly of violence in the territory over which they claim sovereignty. The increasing interdependence of states under the auspices of globalization similarly raises questions regarding the exact level of sovereignty and self-determination that underlies the modern definition of the state. Finally, states are not immune to intrusions from other states affecting their policies and domestic affairs; these intrusions can take a variety of forms ranging, for example, from economic sanctions to military intervention.[221]

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[220] James A. Caporaso, "Changes in the Westphalian Order: Territory, Public Authority, and Sovereignty," *International Studies Review* 2:2 (2000), 1-28, at 22.

Nonetheless, political authority is typically conceived exclusively in terms of states and state territoriality. States and state territoriality have, in the terminology of discourse theory, become sedimented discourses; their historical contingency has been erased to a remarkable degree. While recent social and historical research no longer assumes this to be true, in the nineteenth century states were typically seen as primordial, immutable entities. German historian Leopold von Ranke, for example, characterized them as "thoughts of God."[222]

In contemporary social and historical sciences, there is no shortage of literature that points to the historical novelty of the state. Authors may disagree about the reasons that gave rise to the modern state, variously highlighting such factors as the medieval stalemate between Empire and Papacy, the changing nature of warfare, military developments in conjunction with the rise of capitalism, or the superior capacity of modern states to control the free rider problem (as compared to alternative forms of political organization, such as city leagues).[223] Authors may also disagree over when, exactly, the state began to emerge in a recognizably modern form, and when it assumed its contemporary characteristics. Few authors still regard the 1648 Peace of Westphalia as the decisive watershed, as the point at which the state sprang into existence fully formed. However, regardless whether the modern state is seen as a form of political authority that started to emerge in the late Middle Ages or only came into full bloom after the Second World War, the origins of the modern state are usually dated no earlier than around 1300. Aged anywhere between fifty and seven hundred years, it is clear that the modern state does not qualify as a primordial form of organization. In fact, it is a relatively recent innovation.

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[221] For example, the US-sanctions against Cuba, international sanctions against Iraq after what is now referred to as the first Gulf War, the invasion of Afghanistan by the former Soviet Union, or the invasion of Grenada by the USA.

[222] Quoted in Hagen Schulze, *Staat und Nation in der europäischen Geschichte* (Munich: C.H. Beck, 1999), 22; my translation.

The model of political authority that preceded the modern state in its geographical area of origin, European feudalism, differed from the state in a number of fundamental respects. If the modern state can be defined as a form of political authority that is impersonal, sovereign and territorially bounded, political authority in feudalism was personal, divided and territorially diffuse. As Hendrik Spruyt suggests, "one can question whether the feudal logic of organization is [...] properly conceived as a system of territorial rule. Instead it is better conceptualized as organization based on personal bonds."[224] Unlike the modern state, which is characterized by a clearly bounded territory over which hierarchical authority is exercised in a uniform and exclusive fashion, feudalism knew neither clear territorial boundaries nor exclusive rule. In addition, feudal hierarchies were diffuse. Spruyt discusses the example of John of Toul, who owed allegiance to four different overlords, and the complicated strategies he employed to ensure he would properly fulfill his obligations to all four lords in case of conflict among them. It is worth quoting Toul at some length to illustrate the complexities involved in negotiating this eventuality:

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[223] See, for example, Martin van Creveld, *The Rise and Decline of the State* (Cambridge: Cambridge University Press, 1999); Michael Mann, *The Sources of Social Power*, volume 1 (Cambridge: Cambridge University Press, 1986); Held, "The Development of the Modern State"; Hendrik Spruyt, *The Sovereign State and Its Competitors: An Analysis of Systems Change*, Princeton Studies in International History and Politics (Princeton, NJ: Princeton University Press, 1994).

[224] Spruyt, *The Sovereign State*, 40.

> If it should happen that the count of Grandpré should be at war with the countess and count of Champagne for his own personal grievances, I will personally go to the assistance of the count of Grandpré and will send to the countess and count of Champagne, if they summon me, the knight I owe for the fief which I hold of them. But if the count of Grandpré shall make war on the countess and count of Champagne on behalf of his friends and not for his own personal grievances, I shall serve in person with the countess and count of Champagne and I will send one knight to the count of Grandpré to give the service owed from the fief which I hold of him. But I will not myself invade the territory of the count of Grandpré.[225]

This was not an atypical situation.[226] By way of some perhaps more prominent examples, the thirteenth century Valois dukes of Burgundy held fiefs both from the king of France and the Empire, and the Plantagenet kings of England were simultaneously subject to the king of France in their role as French lords. Thus, "Richard Lionheart was not simply king of England but lord of wide domains in western France."[227] The various areas under Plantagenet rule did not constitute a unified Empire; instead, the Plantagenet realms have been described as "an odd conglomeration of diverse powers over territories of widely differing status."[228] The lack of clearly bounded, purely territorial areas of political authority is perhaps most visible in the very absence of political boundaries on many early modern maps. As Akerman points out, we

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[225] Quoted in Spruyt, *The Sovereign State*, 39.

[226] As Kratochwil notes, criss-crossing and overlapping loyalties, as well as the fact that nobles pursued political aspirations in several kingdoms, blurred the boundaries of realms and prevented "kingdoms from acting like unitary states"; Friedrich Kratochwil, "Of Systems, Boundaries and Territoriality: An Inquiry into the Formation of the State System," *World Politics* 39:1 (1986), 27-52, at 33.

[227] Ralph V. Turner and Richard R. Heiser, *The Reign of Richard Lionheart: Ruler of the Angevin Empire, 1189-99* (Harlow: Pearson Education, 2000), 17.

> take for granted the precise delineation of political frontiers on most of our maps. [...] For the past century and more, school children around the world have been introduced to world geography through maps similar to almost any taken from a turn-of-the-century Rand McNally atlas [...], all of which show a system of solidly coloured, hard-edged, and apparently impermeable sovereign territorial states. It was not always so. Mid-sixteenth century world maps, or the map of Europe in Ortelius's *Theatrum Orbis Terrarum* [...], portray another kind of political world, one in which bounded political spaces do not seem fundamental to the global order.[229]

Despite the evidence and the general recognition of the fact that territorial states are a distinctly modern phenomenon, this has so far not translated into a sustained analytical engagement with the consequences of state territoriality in the literature on ethnic and national diversity. For all intents and purposes, state territoriality is treated as external to an examination of those approaches, and taken for granted as the framework within which responses to ethnic and national diversity unfold.

Second, the assumption that state territoriality is normal. State territoriality is typically regarded as the only, or at least the only feasible, model of political authority. This is clearly evident in cases such as Bosnia-Hercegovina, where, in 1995, a territorial system of ethnic self-government was superimposed on an ethnic landscape that was characterized by ethnic dispersion and mixed settlement. Arguably, it might have been more conducive to a stable co-existence of different ethnic groups in this case if ethnic self-government had been organized not on the basis of territory, but in ways that more closely reflected actual demographic patterns.

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[228] Robert-Henri Bautier, quoted in Turner/ Heiser, *Richard Lionheart*, 18.

[229] James R. Akerman, "The Structuring of Political Territory in Early Printed Atlases," *Imago Mundi: The International Journal for the History of Cartography* 47 (1995), 138-154, at 139/141.

There is, in fact, a wide range of alternatives to political authority conceived in terms of state territoriality. While politicians and political scientists have, in Canada as elsewhere, been preoccupied with territorial accommodations of demands for national self-government, there have been a number of noteworthy exceptions. In the social sciences, there have been several suggestions for the non-territorial accommodation of nations.[230] On the level of practical politics, recent self-government agreements between the Canadian state and some Aboriginal peoples display features which depart in some ways from a strict model of state territoriality by partially decoupling political authority from territory.[231] For example, the agreement between the Nisga'a nation, the Canadian government and the government of British Columbia concluded in 1999 does allow for the delivery of services by the Nisga'a government to members of the Nisga'a nation who reside outside Nisga'a lands.[232] Regarding non-territorial self-government arrangements for non-Aboriginal groups, the provisions for separate denominational schools and school boards in Canada's 1867 constitution provide one, albeit limited, example.[233]

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[230] See, *inter alia*, Ephraim Nimni, ed., *National Cultural Autonomy and its Contemporary Critics*, Routledge Innovations in Political Theory 16 (London/ New York: Routledge, 2005); and David Elkins, *Beyond Sovereignty*.

[231] See, *inter alia*, Peter W. Hogg and Mary Ellen Turpel, "Implementing Aboriginal Self-Government: Constitutional and Jurisdictional Issues," *The Canadian Bar Review* 74:2 (1995), 187-224.

[232] Canada, "Nisga'a Final Agreement" (http://www.ainc-inac.gc.ca/pr/agr/nsga/nisdex12_e.pdf, accessed 9 February 2006).

Beyond the Canadian case, feudalism has already been discussed as a form of non-territorial political authority. Another example from historical practice is the Ottoman Empire's millet system, which granted a significant degree of autonomy to specific religious minority groups. "Each religious group was named as a *millet* [...]. The *millets* were in charge of the education, welfare, and personal law of their members,"[234] regardless of where those members resided. The millets' authority, while limited by the boundaries of the Empire, was not otherwise based on or bounded by territoriality.

Of course, the historical experience of feudalism and the Ottoman Empire may raise some doubts whether their structures of political authority are salvageable at all for democratic societies, and if so, in what way. However, Karl Renner and Otto Bauer developed a model of non-territorial national self-government that was based on some of the same basic principles as the millet system, and while the Renner/ Bauer model was not developed in a thoroughly democratic socio-historical context, it was embedded in a broadly progressive body of thought. Throughout the nineteenth and the early twentieth century, Austrian politicians of different ideological backgrounds advanced numerous schemes for solving the protracted national conflicts that divided the Habsburg monarchy. These schemes usually involved granting a degree of administrative autonomy to different national groups, or suggestions for transforming Austria into a federation of nation-states.[235] Thus, they conceived of political authority in strictly territorial terms, ignoring the fact that, due to ethnic and national settlement patterns, territorial forms of national self-government would in many instances have been inadequate to accommodate nationality in the political process.

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[233] United Kingdom: Parliament, "An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith" [British North America Act, 1867] (http://www.justice.gc.ca/en/ps/const/loireg/p1t1-1.html through p1t1-6.html, accessed 9 February 2006), Section 93.

[234] Justin McCarthy, *The Ottoman Turks: An Introductory History to 1923* (London/ New York: Longman, 1997), 128; italics in the original.

Recognizing these problems, Renner and Bauer rejected purely territorial forms of national self-government. They agreed that the conflicting nationalities within the Empire had to be appeased by granting them some degree of autonomy and self-government. However, they felt that this could not be achieved by simply dividing the territory of the Empire by nationality, since this would have had the effect of producing substantial national minorities within territories controlled by one specific national group. Moreover, the boundaries between different national groups were unstable, especially since industrialization and the advent of capitalism mobilized the population to a high degree and turned previously largely homogeneous areas into heterogeneous ones, altering the demographic balance between different ethno-cultural groups.[236]

In an 1899 pamphlet entitled *Staat und Nation*,[237] as well as a 1902 study entitled *Der Kampf der österreichischen Nationen um den Staat*,[238] Karl Renner suggested the partial replacement of territoriality as the basis for political authority with a model of national cultural autonomy.[239] This model was taken up and advocated by Renner's fellow Austrian Social Democrat, Otto Bauer. In the words of Otto Bauer,

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[235] See Hartmut Lehmann and Silke Lehmann, eds., *Das Nationalitätenproblem in Österreich 1848-1918* (Göttingen: Vandenhoeck and Ruprecht, 1973).

[236] See Otto Bauer, *Die Nationalitätenfrage und die Sozialdemokratie* (Vienna: Verlag der Wiener Volksbuchhandlung, 1924 [1907]).

[237] Karl Renner, "State and Nation," in Ephraim Nimni, ed., *National Cultural Autonomy*, 15-47.

[238] Republished in a thoroughly revised edition as *Das Selbstbestimmungsrecht der Nationen* (Leipzig/ Vienna: Franz Deuticke, 1918).

> national cultural autonomy aims, in its pure form, not at constituting the nation as a territorial corporation, but as an association of individuals. Those national corporations, regulated by public law, would be territorial only insofar as they could, of course, not extend their reach beyond the borders of the Empire. Within the state, power shall not be given to the Germans in this, to the Czechs in another region; rather, the nationalities - regardless of their place of residence - shall form corporations that autonomously administer their national affairs. In the same city, very often two or more nationalities would, next to and undisturbed by each other, build their national administration and national education facilities [...].[240]

In this system of national cultural autonomy, individuals could freely choose which of those non-territorial national corporations to join. The corporations would be responsible for matters such as education, culture and assisting co-nationals in judicial matters in regions where they did not speak the official language of the court. In order to raise the financial resources they needed to perform their functions, they would be allowed to tax their members. All government functions with no effect on cultural matters would remain with the established state authorities, that is, the Imperial administration.

However, Bauer saw a number of problems with putting national cultural autonomy into practice. He suggested, for instance, that restricting the jurisdiction of the national corporations to cultural matters would leave them subject to the decisions of state authorities - which could, in the end, jeopardize even their very existence, since the corporations would have no other guarantee for their existence than the continued goodwill of the state authorities, and few means to defend themselves should the state decide to abolish them.

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[239] Renner and Bauer used the term *Personalitätsprinzip* to refer to this model, which translates as "personality principle." The term denotes the exercise of political authority over individuals based on their personal membership in a specific nation, rather than on the basis of their place of residence. However, given the potential for terminological confusion with the concept of "personality principle" as defined by the Canadian Royal Commission on Bilingualism and Biculturalism, I have opted to follow the practice in the recent literature on Renner and Bauer of using the term national cultural autonomy.

[240] Bauer, *Nationalitätenfrage*, 353-354; my translation.

To remedy this problem, Bauer proposed to adopt a modified form of national cultural autonomy, identical to the one developed by Karl Renner in 1902. In this modified form, the national corporations would take control not only of cultural matters, but also of the state's administrative structure. Since the Imperial government would therefore depend on the national corporations for administrative purposes, the corporations' independence would be secure. To accomplish this, the whole Imperial territory would be divided into counties governed by councils. In nationally homogenous counties, those councils would be responsible for the execution of both general administrative functions and cultural functions. In nationally heterogeneous counties, the councils would assume only the non-cultural administrative functions, while cultural matters would be administrated by separate "national" councils. Those "national" councils - and those general councils that assumed cultural functions - would in turn be organized into "national" corporations which would span the whole territory of the Empire.

Third, the assumption that state territoriality is neutral. As a product of and vehicle for the exercise of power, state territoriality is intimately linked with societal power relations. From a discursive-institutionalist perspective, then, state territoriality does not simply function as a neutral stage on which societal relations play out. On the contrary, it is seen as having significant power effects on the conception of political space, social actors and their identities, the objectives they pursue and the strategies they use, as well as the resources at their disposal. Due to the fundamental role of state territoriality in contemporary conceptions of the social and of political authority, its power effects are far-reaching. The following paragraphs will outline a number of them for purposes of illustration, but this by no means represents an exhaustive list.

A. Constituting political space. State territoriality - as a method of delineating political authority - plays a constitutive role in the construction of political space. Drawing the boundaries of political space on the basis of imagined lines in geographical space has fundamental implications for the demographic composition of political space, for majority and minority relations within that space, and for the ethnic, national, cultural, racial or linguistic conception of said space.

Given that ethnic and national settlement patterns are seldom conveniently distributed in a fashion that neatly separates Group A from Group B, the boundaries state territoriality imposes on the map typically cut across ethnic and national differences. The "inside" of a given boundary will usually not encompass a demographically homogeneous space (even though the fiction of the nation-state asserts otherwise), and groups which are present on the inside will likely also have a presence on the outside. Thus, territorial boundaries separate, in a more or less artificial fashion, members of a given ethnic and national group from one another, while locking together members from diverse ethnic and national groups in the same, territorially defined, political space.

At the same time, the discourse of state territoriality has historically articulated with other discourses, including discourses of race and nation, in a fashion that has had significant implications for the character of state territories and societal power relations. In particular, in societal contexts where the concept of the nation is defined in cultural or ethnic terms, the linkage between nation and state in the concept of the nation-state commonly casts a state's territory as the homeland of a specific nation (which, in many cases, is open to contestation) or as the property of (a) specific nation(s). This sense of proprietorship is perhaps most evident in slogans such as "White Canada" or "Germany for the Germans" that animate nativist movements.

Conceiving political space in terms that portray it as the exclusive or primary property of a specific group has considerable implications for the power that different groups can wield over that space, or for assumptions about how much power they can legitimately wield. For instance, if the territory of the German state belongs to the Germans, and if the category of "Germans" is popularly defined in terms of ancestry, kinship and blood relation, then this will seriously limit the kind of recognition demands that non-ethnic Germans can make on the German state and the German public without running the risk that those demands will be construed as illegitimate by the dominant ethnic group.

At the extreme, the notion of exclusive control over a given territory, which is inherent in state territoriality by way of sovereign authority, may undermine the will to accept and recognize diversity when associated with the discourse of nation and ethnicity. In David Elkins's words, as

> nations replaced universal religions as the sovereign arbiter of life and death, the 'compactness' and 'boundedness' of religion gave way to our now familiar intermingling of believers in the same area. Instead, we refuse to countenance the intermingling of nations [...].[241]

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[241] David Elkins, *Beyond Sovereignty*, 13-14.

In somewhat less extreme cases, different groups may inhabit the same territory, but their claims to and rights to exercise control over that territory will differ substantially. Either way, state territoriality, through its linkage with discourses of race and nation, commonly privileges some ethnic and national groups, while disadvantaging others. In effect, then, the articulation of state territoriality with national discourses tilts political space in favour of specific groups.[242]

B. Constituting group relations. State territoriality exercises considerable influence not only over the construction of political space, but also over the nature of group relations within a political space. Even if state territoriality is conceived merely as a grid that is superimposed on pre-existing patterns of ethnic and national settlement, without affecting those patterns at all, it will still have a noticeable impact on group relations in the sense that it positions certain ethnic or national groups as majority groups within a state territory, relegates others to the status of minority groups, and excludes other groups entirely. In a sense, the concrete meaning of the very *notion* of an ethnic or national majority and minority critically depends on the fact that state territoriality, as mentioned before, locks different groups together in the same political space. Put differently, the notion of "majorities" and "minorities" is dependent on the presence of diverse groups within a shared space. In a hypothetical scenario where political authority is delineated, not on the basis of territory, but on the basis of ethnicity, political spaces would not contain ethnic majorities or minorities (they would, of course, contain other forms of majorities and minorities).

In reality, of course, the interplay between state territoriality and group relations is a good deal more dynamic and complex. State territoriality is not simply a grid that is imposed on an existing settlement pattern which will then continue much as it was before. To a significant extent, ethnic and national settlement patterns are themselves products of states exercising control over a strictly bounded geographical area. States exercise control over who can enter that area, who can leave it, and who can locate where within its boundaries and under what conditions. Thus, state territoriality not only influences the notion of majorities and minorities on an abstract level, but is also involved in the ongoing construction of majority and minority groups in a very concrete sense.

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[242] Keith Faulks contends that "[a]s long as we live in a world divided by territorial states, which are invariably defined in ethnic and gendered terms, citizenship's egalitarian logic will remain unfulfilled"; Keith Faulks, *Citizenship* (London/ New York: Routledge, 2000), 166.

State territoriality does not in itself determine the character of group relations. How the implications of state territoriality for group relations play out in a given social and historical situation depends on the interplay of a range of factors. By way of illustration, the implications of state territoriality for group relations can be positive, in the sense that being locked in a shared political space may encourage the emergence of mutual acceptance, recognition and toleration. Alternatively, depending on how the field of societal power relations is structured, and depending on inter-group attitudes, sharing a political space may position one ethnic or national group as subordinate to another.

C. Constituting groups. State territoriality has an impact not only on relations that obtain between ethnic and national groups; it also exerts an appreciable influence on the constitution of groups themselves - for example, on their self-identity, their cohesiveness, and the nature of political obligations. The clearest way in which state territoriality affects the constitution of groups has already been alluded to, that is, the control it gives the state (and groups that can effectively control particular states) over the composition of the population resident in a given area. States have rarely hesitated to deny entry to ethnic, national or racial classes of individuals they considered undesirable, or to encourage the immigration of groups with a "desirable" profile.[243] Likewise, states have used their control over territory to determine whether specific groups would be allowed to settle in specific geographical areas or not; the Canadian injunction against Japanese settlement on the west coast during and after the Second World War is a case in point. Both practices have a considerable impact on the size and cohesiveness of an ethnic group.

In addition, the sharp delineation of political spaces along territorial lines has consequences for group identities and the nature of political obligations. A group's identity may, for example, include a distinct sense of its status as the dominant group in a given state and a proprietary sense of legitimate control over its territory. Territorial identities may also be used to override ethnic, national, cultural, or linguistic ones - for instance, if the latter are portrayed as purely private matters that should not play a role in the public sphere, but should instead give way to a "common identity" purportedly defined in state territorial terms. Finally, political obligations vary along territorial lines: speaking purely in empirical terms, the obligations owed to one's state and one's fellow citizens may differ dramatically from those owed to members of one's ethnic or national group who reside in different states.

D. Constituting group aspirations. State territoriality plays a significant role in determining some of the political goals and objectives that ethnic and national groups may pursue. For instance, ethnic and national groups pursuing a measure of self-determination typically conceive the latter in territorial terms. National self-determination is conceived as regional autonomy, federalism, secession, or a variation on those themes. In other words, even actors who challenge the legitimacy of existing states, or a state's policies towards specific ethnic and national groups, rarely do so by questioning the concept of state territoriality. Rather, they seek to replicate state territoriality. Québécois nationalists do not seek self-government for a putative French Canadian nation that extends throughout Canada; their ambitions are couched in terms of establishing Quebec as *un pays normal*, that is, as a "normal" country or nation-state. By the same token, ethnic and national groups that cannot realistically hope to achieve effective control over a territory may, due to the naturalization of state territoriality, face difficulties conceiving or presenting their demands in the language of self-government.

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[243] In the Canadian context see, *inter alia*, Peter S. Li, *Destination Canada: Immigration Debates and Issues* (Don Mills: Oxford University Press, 2003), and Ninette Kelley and Michael Trebilcock, *The Making of the Mosaic: A History of Canadian Immigration Policy* (Toronto: University of Toronto Press, 1998); Irving Abella and Harold Troper, *None is too many: Canada and the Jews of Europe, 1933-1948*, third edition (Toronto: Key Porter, 2000).

E. Constituting group resources. Finally, state territoriality has a significant impact on the material and symbolic resources available to different ethnic and national groups. For example, and by way of reiteration, state territoriality has profound implications for the size and cohesiveness of ethnic and national groups. A state's territory also provides the framework for the "authoritative allocation of goods" (to borrow a term from political systems theory), as well as the authoritative mobilization of resources and the application of sovereign authority. Typically, ethnic and national groups will have differential access to the policy-making process involving these three aspects. One of the mediating factors in determining the degree of access is the articulation of state territoriality with discourses of race, nation and ethnicity, as discussed earlier.

Fourth, the assumption that state territoriality is immutable. As mentioned before, the territorial imagination not only reduces the range of possible forms of political authority to state territoriality, it also ignores substantial differences between different historical articulations of state territoriality. In effect, it treats state territoriality as an unchanging, immutable category. In fact, it is highly malleable and subject to continuous and ongoing change. Thus, state territoriality in the early twenty-first century differs in several respects from state territoriality in the seventeenth century. For instance, the basis of claims to territory changed dramatically over the last couple of centuries:

> Under the influence of nationalism and Romanticism, a link between a 'people' and territory became imprinted in popular imagery [...] Territory was no longer a royal possession, claims against which in the dynastic era were based on inheritance, succession, treaties, and other legal criteria, but a vessel that contains a people with distinct languages, cultures, histories, and (often) religions. [...] Most importantly, the organic connection between geography and a 'people' created a moral good in the sense that now the state and its defining territory belong to the people. Popular will thus became the major legitimizing principle for territorial change [...].[244]

Similarly, practices associated with the revision of state territory have changed considerably. Conquest was, historically, a frequent means of territorial change, and one that was widely accepted as legitimate. The number of conflicts over territory increased drastically in the twentieth century; but after the Second World War, the percentage of territorial conflicts that resulted in actual territorial change declined substantially.[245] At the same time, the attainment of territorial change through violence increasingly came to be considered illegitimate. In this context, Zacher notes a "growing respect for the proscription that force should not be used to alter interstate boundaries - what is referred to here as the territorial integrity norm."[246]

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[244] K.J. Holsti, *Taming the Sovereigns*, 85.

[245] Mark W. Zacher, "The Territorial Integrity Norm: International Boundaries and the Use of Force," *International Organization* 55 (2001), 215-250, at 218.

According to Jackson and Zacher, the increasing opposition to the use of force to effect territorial changes is part of a new "territorial covenant" that explains the relative stability of state boundaries in the post-WWII era. They suggest that this covenant consists of four elements: a belief in peaceful dispute resolution reflecting the principles of mutual respect and peaceful conflict settlement in democratic societies; state interest in the preservation of international order which, in the present context, emphasizes international rules and militates against the use of force and coercion; opposition to colonialism (and hence to a potential re-establishment of colonies); and a belief in the principle of national self-determination for civic nations, which makes popular consent a crucial condition for legitimate boundary changes.[247]

Arguably, this increased support for territorial stability - the general presumption in favour of existing territorial boundaries - has had significant power effects, especially as regards the strategic situation of national majorities and minorities within existing states. In particular, the general preference for existing boundaries and the skeptical attitude towards boundary change makes it more difficult for national minorities to justify and gain support for claims to a state of their own by way of secession. It is instructive in this regard that the "remedial" approach to secession - one of the dominant approaches to secession within political philosophy - regards secession as legitimate only if the seceding group can demonstrate that it is being harmed by "its" current state, and there is no way short of secession to put an end to the state's harmful practices.[248] Additionally, if the state and its territory are assumed to be the property of their people, and if that people is conceived in ethnic or national terms, this may make it difficult for the people (thus understood) to accept and tolerate secessionist minority movements.

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[246] Zacher, "The Territorial Integrity Norm," 215.

[247] See Robert H. Jackson and Mark W. Zacher, "The Territorial Covenant: International Society and the Stabilization of Boundaries," Working Paper 15 (Vancouver: Institute of International Relations, University of British Columbia, 1997)

Finally, the practices brought to bear by states on their territories have shifted considerably over time. To mention but two examples: first, states have become increasingly interested in who enters, passes through, or leaves their territory, and also gained an increased capacity to exercise substantial control over movements across and within their borders. The means by which they controlled such movements likewise changed over time, as evidenced, for instance, by the history of passports, visa, and other identity papers.[249] Second, the content of citizenship - the set of rights and obligations that come with it - has undergone significant transformations over the course of the last few centuries.

3.6 Conclusion

The literature on ethnic and national diversity typically pays little attention to the ways in which state territoriality, as a form of political authority based on and delimited by territory, influences the concrete meaning of societal responses to diversity. In fact, state territoriality is notable mostly for its analytical absence. This systematic silence erases state territoriality as an object of analysis; by default more than by design, this erasure engenders a particular view of state territoriality which I call the territorial imagination. This territorial imagination consists of four interrelated assumptions about state territoriality: (1) that it is the natural form of political authority; (2) that it is the normal model of political authority; (3) that it has no power effects on society in general, and on ethnic and national power relations in particular; and (4) that it is immutable.

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[248] See, *inter alia*, Allen Buchanan, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (Boulder, CO: Westview, 1991); Brilmayer, "Secession and Self-Determination."

[249] See John Torpey, *The invention of the passport: surveillance, citizenship, and the state* (Cambridge: Cambridge University Press, 2000); and Jane Caplan and John Torpey, eds., *Documenting individual identities: the development of state practices in the modern world* (Princeton, NJ: Princeton University Press, 2001).

Drawing on a number of theoretical perspectives, this chapter argued that each of these assumptions is highly problematical. State territoriality is not a natural model of political authority, but socially and historically contingent. Likewise, it has undergone significant changes over the last few centuries; far from being immutable, it is instead subject to constant rearticulation. Additionally, state territoriality is not the normal form of political authority; the naturalization of state territoriality, its sheer dominance in contemporary conceptions of political space, its "taken for granted" quality, effectively eclipse alternative models of political authority, but such models do exist - they have both informed social practice in the past, and been developed on a theoretical level. Finally, state territoriality has significant power effects. It plays an important role in the constitution of political space, the nature of group relations, the nature and production of social groups and group identities, the character of group aspirations, and the distribution of social and political resources among groups.

The theoretical framework upon which this alternative reading is based derives from a combination of three distinct theoretical perspectives: first, socio-political approaches to human territoriality emphasize the use of territory as a means of control, and thus the link between territoriality and coercive power. Second, neo-institutionalism points to the implications of state territoriality for the production of social actors, as well as its impact on group interests, aspirations, strategies and resources. Third, Laclau and Mouffe's variant of discourse theory highlights the indeterminate and variable nature of state territoriality, its character as a product of and vehicle for the exercise of power (where power is understood in productive rather than only repressive terms), as well as its profound implications for power relations between or among social groups.

4.

CONTROL

The previous chapter suggested that the literature on state responses to ethnic and national diversity operates within the framework of the territorial imagination, that is, a particular view of state territoriality that rests on four interrelated assumptions: that state territoriality is a natural, normal, neutral and immutable form of political authority. This view effectively renders state territoriality invisible and prevents an analysis of how it affects various societal responses to diversity.

In contrast to the territorial imagination, I have argued that state territoriality is in fact neither natural, normal, neutral, nor immutable. This chapter will flesh out that argument by examining one specific range of state responses to ethnic and national diversity - that of "control" approaches - and by teasing out some of the power effects of state territoriality in the context of such responses. The chapter will outline the extent to which these approaches rest on and are infused with state territoriality, and some of the ways in which state territoriality shapes the field of social relations in which those approaches are situated, conceived, and implemented.

At the outset, it should be pointed out that the understanding of "control" approaches used here differs somewhat from that employed in some of the literature on diversity, for example the work of Ian Lustick. In an influential article on the problem of explaining stability in deeply divided societies, Lustick contrasts "control" approaches with consociational approaches in the following manner:

> Both consociational and control models take as their point of departure the continuation of deep divisions or vertical segmentation in the societies under consideration, as well as the presence of intense rivalry between those segments for important social, economic, and/or political resources. Consociationalism and control can thus be seen as alternative explanations for stability in such societies. But, whereas consociationalism focuses on the mutual cooperation of subnational elites as decisive in this regard, a control approach would focus on the emergence and maintenance of a relationship in which the superior power of one segment is mobilized to enforce stability by constraining the political actions and opportunities of another segment or segments.[250]

This definition of a control approach revolves around the domination of one or several social group(s) by another within the confines of a shared political space. While the idea of uneven power relations is central to the understanding of "control" approaches that informs this chapter as well, my understanding differs from Lustick's definition in several respects: first, Lustick's conception of power essentially views it in terms of coercion. As suggested in the previous chapter, power also needs to be seen as productive, that is, it is constitutive of groups and individuals, not simply held by or exercised over them. Second, and relatedly, the concept of "control" as used in the present context applies not only to the question of how societies deal with existing deep divisions, but also to the (re-)production (or prevention) of such divisions - for example by means of immigration policy, expulsion, relocation, or other strategies affecting the size, cohesion, and composition of groups within a society.

In the way I use the term, "control" approaches are responses to ethnic and national diversity that privilege certain groups and identities while seeking to prevent the emergence, confine the extent, or limit the expression of others. In effect, "control" approaches seek to exclude or erase ethnic and national groups that are construed as different and constituted as social "Others." "Control" approaches can take a variety of forms, ranging from extermination of specific groups, to their physical exclusion from a given territory or some of its parts, to assimilation, or to the social, economic, political, cultural or ideational marginalization of minority groups.

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[250] Ian Lustick, "Stability in Deeply Divided Societies: Consociationalism versus Control," *World Politics* 31:3 (1979), 325-344, at 327-328.

The use of the term "control" for one class of responses to ethnic and national diversity is not intended to suggest that approaches in the other categories - neutrality and recognition - do not involve forms of social control. Similarly, approaches within other categories may effectively result in assimilation or marginalization. What distinguishes "control" responses to diversity from other forms of responses is their purported objective and their articulation with a particular view of political space. "Control" approaches operate with an ethnicized and racialized view of public space. In particular, public space is conceived as the property of specific ethnic or racial groups. The explicit objective of "control" approaches is to benefit those groups, to disadvantage others, or to eliminate groups that are constructed as social "Others" from public space entirely.

In contrast, neutrality approaches conceive public space as ethnically, culturally and racially neutral. On this view, culture and ethnicity have a legitimate role to play in the private sphere, but not within the public realm. Political authority is not to be concerned with ensuring the dominant status of some groups, or with offering recognition to others. This differs significantly from recognition approaches, which seek to structure public space in a way that accommodates the presence of different ethnic, cultural and racial groups - for example, by way of minority rights. Both of those categories - neutrality and recognition - may, in actual fact, create or perpetuate structures of inequality and privilege, but unlike "control" approaches, this is not their purported objective. Their purported objective is, in fact, typically the opposite.

This chapter will draw out some of the implications of state territoriality for "control" approaches by exploring three historical responses directed at Canada's French minorities, Aboriginal peoples, and third force Canadians, respectively: the Manitoba schools question, the establishment of residential schools for Aboriginal children, and the treatment of Japanese Canadians during the Second World War and the years immediately after the end of the war.

4.1 The Manitoba Schools Question

Historical developments. In 1870, Canada's federal Parliament established the province of Manitoba by way of the Manitoba Act.[251] Section 23 of that Act determined that Manitoba would be a bilingual province, putting English and French on an equal footing with regard to the conduct of parliamentary affairs and court proceedings. Section 22 of the Manitoba Act stipulated that no provincial law could "prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by Law or practice in the Province at the Union"; this effectively guaranteed the continued existence of Protestant and Roman Catholic schools. Underlying Sections 22 and 23 was Parliament's recognition of the fact that the area that was to become Manitoba was home to a sizable Catholic and French-speaking community: at the time the province of Manitoba was created, roughly half of its population was French-speaking, and half of its population was Catholic.[252]

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[251] Canada: Parliament, "An Act to amend and continue the Act 32 and 33 Victoria, chapter 3; and to establish and provide for the Government of the Province of Manitoba" [Manitoba Act] (http://www.collectionscanada.ca/confederation/023001-2170.836.1-e.html through 8-e.html, accessed 6 December 2005).

In 1890, Manitoba's Legislative Assembly passed several pieces of legislation that effectively eroded the equal status of Anglo-Protestant and French-Catholic Manitobans. Twenty years after the Manitoba Act had entrenched French language and Catholic education rights in the province, the Manitoba legislature abolished French as an official language and replaced the existing denominational schools (which were private and financed by residents and provincial grants) with a public school system, financed by provincial and municipal taxes, that made no allowance for separate Catholic public schools. Catholics were permitted to send their children to private, Roman Catholic schools, but were required not only to finance those schools themselves, but also to continue paying taxes for the public school system. In effect, the Manitoba school legislation imposed a double burden on parents who wished their children to have a Roman Catholic education.

Passage of this legislation engendered immediate resistance from Manitoba's French-Catholic minority.[253] Constitutionally, there were a number of potential points of resistance: reservation (refusal by Manitoba's Lieutenant-Governor, a federally appointed officer, to sign the legislation into law and referring it to the federal government for a decision instead), disallowance

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[252] The French/ English and Catholic/ Protestant cleavages did not exactly coincide, but they followed each other very closely.

[253] For the following overview of historical developments, see Lovell Clark, ed., *The Manitoba School Question: Majority Rule or Minority Rights?* (Toronto: Copp Clark, 1968); R. Douglas Francis, Richard Jones and Donald B. Smith, *Destinies: Canadian History Since Confederation*, fourth edition (Toronto etc.: Harcourt, 2000), 99-102; Susan Mann Trofimenkoff, *The Dream of Nation: A Social and Intellectual History of Quebec* (Toronto: Gage, 1983), 160-162; and Richard Risk and Robert C. Vipond, "Rights Talk in Canada in the Late Nineteenth Century: 'The Good Sense and Right Feeling of the People,'" *Law and History Review* 14:1 (1996), 1-32, at 23-28.

(abrogation of the leg[illegible] in question by the federal government within one year after its passage), remedial legislation passed by the federal government to restore French-Catholic rights and status, and legal suits with the objective of having the legislation struck down as unconstitutional by the courts. However, the federal government was reluctant to intervene in this conflict politically: it had been embroiled in protracted battles with Manitoba over disallowance of several pieces of provincial legislation in the preceding years. In addition, then Prime Minister John A. Macdonald felt that reservation or disallowance of the Manitoba acts would simply play into the hands of Manitoba's government and strengthen the latter's position in the Manitoba electorate. Finally, Macdonald believed that Manitoba's legislation was clearly unconstitutional.[254] Consequently, Macdonald preferred that this matter be dealt with in the courts, and agreed that the federal government would pay the legal costs incurred by the French-Catholic minority during the process. This preference for a legal response was also reflected in Macdonald's decision not to have Manitoba's Lieutenant-Governor reserve the schools legislation; similarly, the federal government decided against disallowing the latter.

Until the mid-1890s, therefore, resistance by French-Catholic Manitobans chiefly focussed on legal measures. They reverted to appeals to the federal government once those measures had been exhausted. Two court cases are of central significance in this context: *Barrett v. City of Winnipeg*, and *Brophy and Others v. Attorney General of Manitoba*. In *Barrett*, the appellant claimed that Manitoba's schools legislation violated Section 22, subsection 1 of the Manitoba Act, since it infringed on rights held in practice by the French-Catholic minority at the time the Act was passed. The claim was dismissed in the trial court and Manitoba Court of Appeal. The Canadian Supreme Court overturned these decisions, but was itself overruled in 1892 by the Judicial Committee of the Privy Council (JCPC), which held that Manitoba's schools legislation did not, in fact, violate the Manitoba Act.

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[254] Lovell Clark, "The Appeal to the Courts," in Clark, ed., *Manitoba School Question*, 98-101, at 98; Lovell Clark, "The Appeal to Federal Intervention," in Clark, ed., *Manitoba School Question*, 118-121, at 118; Francis et al., *Destinies*, 100.

Activating Section 22, subsection 2 of the Manitoba Act, which allowed for appeal to the federal government regarding Manitoba legislation "affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education," the French-Catholic minority then proceeded to call on the federal government to restore their school rights. The federal government refused to intervene at that point, and decided instead to seek advice from the courts on the question whether it had the constitutional power to do so despite the fact that Manitoba's legislation had been ruled legal. In the 1894 *Brophy* case, the Canadian Supreme Court held that the federal government did not have such power, but was again overturned by the JCPC in 1895. In early 1895, Canada's federal government (by now headed by Mackenzie Bowell) instructed Manitoba to restore French-Catholic school rights. Manitoba's government refused to comply, and the federal government consequently presented a remedial bill to the Canadian House of Commons in early 1896. However, the bill was introduced so late in the session that it did not pass before Parliament was dissolved. A federal election was called for June and the Conservative government, now headed by Charles Tupper, was defeated by the Liberals.

Under Wilfrid Laurier's leadership, the Liberals had opposed the remedial bill in Parliament, despite Laurier's personal conviction that the rights of Manitoba's French Catholics had been infringed upon.[255] Laurier's opposition to the bill was based on a concern that it would undermine provincial autonomy. Instead, Laurier advocated the "sunny ways" of negotiation with the Manitoba government in order to bring the Manitoba crisis to an end. Essentially,

> Laurier argued that the appeal permitted by the Manitoba Act was a means for redress given to a minority; while redress was surely needed, respect for provincial autonomy demanded delicacy and diplomacy. The bill should be opposed not so much for its content but because the [federal] government, in its dealings with Manitoba, had failed miserably to give this respect.[256]

In November 1896, the Laurier and Greenway governments arrived at a compromise regarding Manitoba's schools legislation: Manitoba's unitary public schools system would remain in place, and separate denominational schools would not be supported by public funds. However, the Manitoba government agreed to allow religious instruction at the end of the school day if requested by ten parents in rural schools, and twenty-five parents in urban schools. At the request of parents, at least one Catholic teacher would have to be employed in urban schools with forty students, and in rural schools with twenty-five students (similar provisions obtained for non-Catholic teachers). Finally, if a school had at least ten students whose native language was not English, these students would be taught both in English and their native language. In sum, "the agreement left the system of public schools intact, but secured for the minority distinct religious teaching, and, where numbers warranted, teachers of their own faith and the maintenance of the

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[255] Risk/ Vipond, "Rights Talk," 25.

[256] Risk/ Vipond, "Rights Talk," 25.

French tongue."[257]

Causes, Origins, Intentions. There were a number of reasons that led to Manitoba's public schools legislation and the protracted crisis in which it resulted. Some of these reasons were specific to Manitoba, while others reflected broader conflicts over the character of Confederation that were being played out in other parts of the country as well. Regarding the first category, Manitoba had undergone significant demographic changes since 1870; while the Anglo-Protestant and French-Catholic communities were of roughly equal size initially, by 1890 the former greatly outnumbered the latter - largely due to the fact that immigrants to Manitoba in the intervening years had been predominantly English-speaking and Protestant.[258] With these immigrants came political ideas, values and beliefs from other regions of Canada, specifically Ontario. Taken together, these demographic and ideational changes prepared the ground for agitation against the "special status" accorded to French and Catholic Manitobans.[259]

By the mid-1890s, representatives of Manitoba's provincial government often referred to alleged problems with Manitoba's Catholic schools as a justification for the 1890 school legislation: they claimed that many of Manitoba's Roman Catholic schools were "inefficient" and offered sub-standard education. At the same time, they charged that provincial grants to the denominational schools had been distributed unevenly before 1890 and had unfairly benefited Catholic schools. It seems clear, however, that concerns of this kind did not provide the motive behind Manitoba's 1890 schools legislation: "The opponents of denominational schools did not at first object to the manner in which they were conducted. In all the years that had passed there had been no official complaint of inefficiency, never a hint that any improvement of Catholic or Protestant schools was to be desired."[260] During the legislature's debates on the proposed schools legislation, Joseph Martin - Manitoba's Attorney-General at the time and one of the driving forces behind the legislation - in fact emphasized that the provincial government did not object to the way (some) schools were being run under the existing system. Rather, he claimed that the government perceived a problem with the system itself because of a lack of accountability on the part of the administrative institutions the province had established for the school system in 1871.[261]

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[257] O.D. Skelton, "The 'Sunny Ways' in Operation: The Laurier-Greenway Compromise," in Clark, ed., *Manitoba School Question*, 211-214, at 213.

[258] According to Crunican, the total population of Manitoba was about 150,000 in 1890; of those, 20,000 were Catholic (roughly 15,000 of which were French-speaking). See Paul Crunican, *Priests and Politicians: Manitoba schools and the election of 1896* (Toronto: University of Toronto Press, 1974), 10 (footnote 9).

[259] See, *inter alia*, Crunican, *Priests and Politicians*, 10; Kenneth McNaught, *The Penguin History of Canada* (Harmondsworth: Penguin, 1988), 185.

Relatedly, the Manitoba government claimed that its schools legislation responded to massive public pressure - a claim that appears to have little basis in fact. As Clague points out, this argument was made only after the fact and "followed rather than preceded the Government's attack on the separate school system."[262] Following Clague, Crunican suggests that there are compelling reasons to believe that the schools legislation was motivated by considerations of political expediency, rather than by concerns with efficiency, inequality or public pressure: the abolition of separate schools and the ensuing conflict with the federal government offered a timely distraction from charges that members of the Manitoba government (specifically, Joseph Martin) had been involved in corrupt business deals.[263] In addition, the abolition of separate schools proved to be a highly successful electoral strategy, securing decisive victories for the Greenway government in Manitoba's July 1892 and January 1896 provincial elections.[264]

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[260] O.D. Skelton, no title, in Clark, ed., *Manitoba School Question*, 19-23, at 21.

[261] Manitoba Free Press, "The End of Dualism," in Clark, ed., *Manitoba School Question*, 54-61, at 54-55.

[262] Quoted in Crunican, *Priests and Politicians*, 9.

While demographic shifts, ideational changes, and political expediency played an important role in the development of the Manitoba crisis, the direct cause for the Greenway government's schools legislation was external rather than internal. In particular, the crucial event was an 1889 speech by Conservative Ontario MP D'Alton McCarthy at Portage la Prairie.[265] McCarthy's speech had a distinctly anti-French and anti-Catholic thrust; it especially attacked linguistic diversity and separate schools in Ontario, Manitoba, and the Northwest Territories.[266] Lauding the USA's refusal to allow the use of French in public affairs despite the presence of a French minority in Louisiana and its assimilative stance towards Hispanics, McCarthy lamented the "silence of both sides of the House of Commons when the curse of the dual language was cooly planted upon this province [Manitoba]."[267] McCarthy saw the existence of two nationalities within Canada as deeply divisive, and, drawing on a deeply held belief that Canada was and must be British in nature, declared that Canada ought to be made "a British country in fact as it is in name."[268]

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[263] Crunican, *Priests and Politicians*, 9; see also Lovell Clark, "Introduction," in Clark, ed., *Manitoba School Question*, 1-8, at 4.

[264] Clark, "Introduction," 4.

[265] See, *inter alia*, Clark, "Introduction," 4; O.D. Skelton, no title, 21; W.L. Morton, no title, in Clark, ed., *Manitoba School Question*, 26-31, at 27-29.

[266] At the time, the *Manitoba Free Press* opposed what it somewhat uncharitably (and not entirely accurately) described as attempts to make Manitoba "the battleground of Ontario fanatics, who dare not propose the abolition of separate schools in their own province"; quoted in Clark, "Introduction," 4.

McCarthy was immediately followed by Joseph Martin, Manitoba's Attorney-General, who fully agreed with McCarthy's point of view and expressed a hope that the Manitoba government would be able to "settle" the issues of separate schools and linguistic dualism in the province. Martin declared that,

> [a]long with Mr. McCarthy and he trusted, with the audience, he was an Englishman and he believed this was an English country. French was a most beautiful language, but to him it was beautiful at home, to him it was a foreign language; and [he] maintained we should speak the language of the country.[269]

Martin also maintained that it was "not a proper thing to have two kinds of schools,"[270] and, insisting on a separation of Church and State, called for the establishment of secular schools. He championed the cause of secular schools during the legislative debates leading up to the passage of Manitoba's schools legislation as well, but found little support for this position.

D'Alton McCarthy's anti-Catholic, anti-French agitation reflected attitudes that were held by many Anglo-Protestant Canadians at the time. Many Anglo-Protestants felt that French-

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[267] Manitoba Free Press, "One People, One Language, One School System," in Clark, ed., *Manitoba School Question*, 36-38, at 36.

[268] Manitoba Free Press, "One People, One Language," 36.

[269] Manitoba Free Press, "One People, One Language," 37.

[270] Manitoba Free Press, "One People, One Language," 37.

Catholics in Quebec as elsewhere posed a threat to Confederation by insisting on special privileges and a separate national identity. In their view, French-Catholics were attempting to aggressively expand their power, and they saw a need to halt this development in the interest both of Canadian unity and equality. In the words of George Bryce:

> When men deliberately state [...] that they aim at building up a French Canadian nationality, what is that but a blow at our hopes as one Canadian people? Language and separate schools are being used to build up what is really destructive to our hopes as a people, and we should be unworthy of our name if we permitted such aggression. Our civil and religious liberties are invaded, and while I should never be one to take one jot or tittle of a right away from a minority, [...] yet I would not be worthy of the convenanting blood in my veins if I submitted to aggression and the destruction of equal rights [...].[271]

Anglo-Protestant hostility towards French-Catholics was galvanized in the late 1880s by growing French Canadian nationalism. Many Anglo-Protestant Canadians were suspicious of Quebec's provincial government under the leadership of Honoré Mercier - specifically, its nationalist and pro-Catholic stance. This stance was widely perceived as divisive and a potential threat to Confederation, and contributed to the perception that French-Catholic Canadians were engaged in an aggressive nationalist project.

In this climate, Quebec's provincial legislature passed the 1888 Jesuit Estates Act.[272] That Act aimed at settling an issue that had dogged successive Quebec governments for a number of decades, but "created a worse stir as religious bigotry reverberated across Canada for another generation."[273] The issue revolved around financial compensation for lands once held by the Jesuit Order in French Canada. When the Jesuit Order was dissolved by Papal order in 1773, those lands initially came into the possession of the British Crown, and later the province of Lower Canada/ Quebec. Over the next decades, income generated from those lands was used to finance education. When the Jesuit Order was reestablished in Quebec in the 1840s, it requested that the estates either be returned to the Order, or that the Order be compensated for their loss. However, Jesuit claims were at odds with claims of the Catholic Church "which now declared priority rights in education."[274] The solution proposed by Quebec's government in 1888 was to pay out a sum total of 400,000 dollars to Catholic institutions and organizations in compensation for the former Jesuit lands, which themselves would remain provincial property. The exact distribution of the compensatory funds between Catholic groups (the Jesuit Order, Université Laval, and the Catholic dioceses of Quebec) was to be determined by the Pope. In response to pressure from Quebec's Protestant minority, the province also granted an additional 60,000 dollars to the Protestant Committee of Public Instruction.

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[271] Manitoba Free Press, "One Canadian People," in Clark, ed., *Manitoba School Question*, 39.

[272] For the following, see especially Francis et al., *Destinies*, 98; and Trofimenkoff, *Dream of Nation*, 157-158.

Despite the fact that the Jesuit Estates Act was passed with the acceptance of Protestant members in Quebec's legislature,[275] it met with strident resistance in Ontario. Many Ontario Protestants objected to the "interference" of a "foreign power" (the Papacy) in internal Canadian affairs. In the Canadian House of Commons, D'Alton McCarthy condemned the involvement of the Pope in the matter, and, together with a dozen of his fellow Conservative MPs, called on the federal government to disallow the Jesuit Estates Act. The federal government under John Macdonald declined to do so. This, however, did not put an end to anti-Catholic and anti-French agitation: in 1889, McCarthy and several Orangemen from Ontario founded the Equal Rights Association, which aimed at fighting the perceived growth of French-Catholic influence. Canada was to be British. The Equal Rights Association advocated the abolition of separate Catholic schools and the exclusive use of English as a language of instruction - goals that found a clear expression in D'Alton McCarthy's agitation in Manitoba in the same year.

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[273] Trofimenkoff, *Dream of Nation*, 157.

[274] Trofimenkoff, *Dream of Nation*, 158.

[275] Crunican, *Priests and Politicians*, 10.

The Manitoba Schools Question and state territoriality. The development of and causes behind the Manitoba schools crisis illustrate the impact of state territoriality on state responses to ethnic and national diversity in a number of ways. First, state territoriality articulated with notions of race and nation in a way that produced Canadian political space as a bounded geographical area dominated by Anglo-Protestants. In the late nineteenth century, many Anglo-Canadians clearly perceived Canada as a space that was (and should be) exclusively or predominantly Anglo-Protestant. With this perception came an appreciable degree of hostility to ethnic and national diversity. Many Anglo-Protestants, such as D'Alton McCarthy, saw national diversity as a phenomenon that undermined the country's unity and hindered its development. In some cases, French-Catholic culture itself was perceived as inferior, as fertile soil for undesirable attitudes and values. In consequence, therefore, many Anglo-Protestant Canadians regarded national diversity as a phenomenon that was to be tolerated at best, or even as something to be expunged if possible.

Second, the Manitoba Schools Question illustrates some of the effects of state territoriality on the production of ethnic and national groups. For instance, the boundaries delineating not only the territory of Manitoba, but also that of Canada as a whole, cut across ethnic and national settlement patterns, which had a noticeable impact on the size and cohesiveness of ethnic and national communities. The provincial boundaries in Canada separated members of different French-speaking communities from one another and effectively rendered them small minorities in most geographical jurisdictions despite the fact that Francophones represented a significant percentage of Canada's overall population.

Third, the crisis over Manitoba's schools legislation demonstrates the uneven impact of state territoriality on different ethnic and national groups. Locked in a common, geographically defined political space as a minority group, Manitoba's Francophone community had less control over, or even access to, political decision-makers and the political decision-making process within the province. The dominance of Manitoba's Anglo-Protestant community, its superior access to material and symbolic political resources, enabled it to promote its own group interests and the vision of Manitoba as an Anglo-Protestant space at the expense of Manitoba's Francophone minority and the rights that had initially been guaranteed to that population group.

Fourth, as the Manitoba Schools Question shows, state territoriality has a profound impact on the relative status enjoyed by ethnic and national groups. Thus, dividing political space along geographical lines in a sense created the status of Anglo-Protestants as Manitoba's majority group and relegated French-Catholics to the status of one of Manitoba's minority groups. Similarly, it affected the identity of those groups and their own understanding of their place within Canadian society: as mentioned above, many Anglo-Protestant Manitobans saw Canada as an Anglophone and Protestant space, and perceived themselves as the rightfully dominant group within (and beyond) the province. As Joseph Martin's comments on the French language demonstrate, some Anglophone Manitobans regarded languages other than English as foreign and felt that they did not belong in Canada. At the same time, the political aspirations of many Franco-Manitobans were shaped in part by an awareness of their minority status and the limits to their political clout that came with it.[276]

Finally, state territoriality has a marked impact on the political process by orientating political behaviour, aspirations and identities. Examining the Manitoba schools crisis illustrates this in a number of ways. For example, the articulation between territory and ethnic settlement patterns - as well as the majority/ minority situations it helped generate - shaped the aspirations both of the Anglo-Protestant majority in Manitoba (e.g., to end "special privileges" allegedly held by a group occupying the same political space, that is, Franco-Manitobans) and the French-Catholic minority. In addition, territoriality had a significant impact on which rights and identities were privileged in Canada's political decision-making process. This is evident in attempts by McCarthy and others to trump constitutionally enshrined minority rights with appeals to the territorial construct of Canada and the welfare of the country as a whole (both of which articulated with notions of Anglo-dominance). It is also reflected in the position taken by Laurier and others that, for strategic reasons and in the best interest of Canada's Francophone minority, considerations of provincial autonomy should take precedence over minority rights.

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[276] Evident in the decision not to resist Manitoba's language policy.

4.2 The establishment of residential schools for Aboriginal children

Historical Developments.[277] In 1883, Canada's federal government approved the establishment of three industrial schools for Native children in the Canadian West. All three industrial schools were conceived as residential schools; they were to be located close to centres of European population (Battleford, Qu'Appelle, and High River) and away from Aboriginal settlements and reserves. At these schools, Aboriginal children were to receive a European education, as well as training in various trades and skills.[278] The schools were to be financed by and subject to the authority of the federal government; two of them were to be staffed and operated by the Roman Catholic Church, while one was to be staffed and operated by the Anglican Church.

The three new industrial schools joined several existing boarding schools for Aboriginal children which had been established by various Churches in the preceding decades. In 1868, shortly after Confederation, the new Dominion of Canada had begun to take on financial responsibilities for several such schools.[279] The number of both industrial and boarding schools increased rapidly during the 1880s and 1890s: the number of industrial schools rose from the initial three to 15 by 1896 and 22 by 1901; while the exact number of boarding schools is difficult to determine for 1883, it had reached 34 by 1896, 42 by 1901, and 53 by 1907. In contrast, the number of day schools for Aboriginal children decreased from 239 in 1896 to 226 in 1901.[280] However, the expansion of the industrial school system came to a halt in the first decade of the twentieth century. While it had originally regarded industrial schools as the proverbial "jewel in the crown" of Aboriginal education, Canada's Department of Indian Affairs – which was responsible for Aboriginal schooling – grew increasingly skeptical of their merits during the 1890s. It ultimately decided to concentrate efforts on boarding schools and day schools instead.[281]

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[277] For the following, see especially John S. Milloy, *A National Crime: The Canadian Government and the Residential School System, 1879-1986* (Winnipeg: University of Manitoba Press, 1999); and James Rodger Miller, *Shingwauk's Vision: A History of Native Residential Schools* (Toronto: University of Toronto Press, 1996).

[278] For a discussion of industrial school curricula, see, *inter alia*, Milloy, *A National Crime*; and James Rodger Miller, "The State, the Church, and Indian Residential Schools in Canada," in J.R. Miller, *Reflections on Native-Newcomer Relations: Selected Essays* (Toronto: University of Toronto Press, 2004), 193-213.

[279] See Milloy, *A National Crime*, 52.

By the time the Canadian government shifted its focus away from industrial schools, they had for several decades coexisted with boarding schools as distinctive parts of a system that aimed at educating Aboriginal children in a residential setting. The two types of residential schools differed at least initially in a number of respects. Boarding schools were, for instance, typically located closer to reserves than were industrial schools, and they were designed for a younger age group. In addition to providing a European-style education, both types of schools were geared towards imparting mechanic and farming skills to the students. However, the training offered by industrial schools was supposed to be wider and more varied than that offered by boarding schools. Industrial schools also tended to be larger than boarding schools. In a sense, the industrial schools were conceived as the "high school" to the boarding schools' "junior high school." Finally, in contrast to boarding schools, industrial schools were fully financed by the federal government. This was reflected in substantial differences in the extent of government funding that the two types of schools received: per capita grants for industrial schools initially amounted to anywhere between 110 and 145 dollars, while boarding schools received only 72 dollars per student.[282]

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[280] See James Rodger Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, third edition (Toronto etc.: University of Toronto Press, 2000), 268; and Wotherspoon/ Satzewich, *First Nations*, 120.

[281] See, *inter alia*, E. Brian Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986), 83; Miller, *Skyscrapers*, 267-268; Miller, *Shingwauk*, 121.

This difference in cost was the primary motivation for the decision by Indian Affairs to phase out industrial schools in the early twentieth century. For a variety of reasons, curricular and other differences between industrial and boarding schools had, in the decades following the inception of the system, decreased to a point where the line between the two types of schools became blurred. Government representatives were concerned that the financial requirements of industrial schools had increased substantially since 1883, especially since they felt that industrial schools had not proven particularly successful at achieving their goals – certainly no more successful than residential schools, which were less of a burden on the public purse.[283]

Based on this assessment, Indian Affairs decided in 1910 to increase its per capita grants to boarding schools from 72 dollars to 100-125 dollars. Additional funds were to be given to the Church-run schools only after their inspection by Indian Affairs officials. In consequence, the distinction between industrial and boarding schools was eroded even further. As Titley observes:

> The larger per capita grants [to boarding schools], the greater supervisory role for Indian agents and inspectors, and the increasing willingness of the department to contribute to the capital costs of boarding schools, soon blurred the distinction

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[282] For a discussion of the similarities and dissimilarities between industrial and boarding schools, see, *inter alia*, Titley, *A Narrow Vision*, 76-77; and Olive Patricia Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times*, second edition (Toronto etc.: Oxford University Press, 1997), 310.

[283] See, *inter alia*, Miller, *Skyscrapers*, 267; Titley, *A Narrow Vision*, 79.

> that existed between them and their industrial counterparts. [...] [T]he curricular differences between the two types of school had not been significant either.[284]

In recognition of this fact, industrial and boarding schools were amalgamated into a single category – that of "residential schools" - in 1923. During the Mackenzie King era, the federal government subsequently took on greater financial responsibilities for residential schools, to the point where the role of the Churches was reduced to providing school staff.[285]

In the late 1940s, government policy on Aboriginal education shifted away from residential schools. Following the 1948 recommendations of a special joint committee of the Senate and House of Commons, Department of Indian Affairs "efforts and resources were redirected from the residential system and devoted to a new policy – the creation of a day-school system and, more significantly, to integration [...]" of Aboriginal children into the regular, provincial school systems.[286] This transition process took several decades and was completed only in 1996, with the closure of the last federal residential school. In 1998, Ottawa formally expressed its regret for the residential school policy and its effects on Aboriginal peoples, and set aside 350 million dollars to assist Aboriginal peoples in dealing with the consequences of abuse in the residential school system.

Causes, Origins, Intentions. There were a number of factors that drove the federal government's decision to establish or support existing residential schools for the education of Aboriginal children, rather than relying exclusively on the use of day schools for this purpose.

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[284] Titley, *A Narrow Vision*, 87.

[285] Titley, *A Narrow Vision*, 89.

[286] Milloy, *A National Crime*, 189-190.

These factors also explain the character of the residential school system as an alliance of "throne and altar"[287] which involved both the state and various Churches in its operation, as well as key developments of the residential schools system from its inception to its termination. Firstly, the distribution of powers delineated in the British North America Act of 1867 imposed an obligation on Canada's federal government to provide for Aboriginal education. The education stipulations contained in several treaties the Canadian government concluded with Aboriginal nations in the West shortly after Confederation had a similar effect.

Secondly, in discharging its education obligations to Aboriginal peoples, the federal government drew on recommendations contained in the 1879 Davin Report as well as historical precedents in the British North American colonies. Both of these sources directed the federal government towards residential schools as an appropriate vehicle for Aboriginal education. Finally, and perhaps most importantly, the establishment of residential schools reflected and must be understood in the context of fundamental changes in the character of Aboriginal-European relations. In particular, residential schools were a core element of a wider strategy pursued by the Canadian state that aimed at assimilating the Aboriginal population. That assimilation strategy in turn was rooted in thoroughly racialized notions of Aboriginal peoples, a perception that they were a troublesome factor for Canada's settler colony, and deep-rooted assumptions about the superiority of European culture and society.

To elaborate on the factors outlined above: the 1867 British North America Act gave the federal government jurisdiction over "Indian affairs," including Aboriginal education. Aboriginal education was thus distinct and separate from the education of other ethnic or national groups, which was assigned to the provinces. As Titley observes, "the segregation inherent in this provision was further reinforced by clauses in the numbered treaties committing the federal government to the support of schools and teachers on reserves."[288] Between 1871 and 1877, the Canadian government signed seven treaties with Aboriginal nations in the west; several of those treaties imposed obligations on the federal government to provide on-reserve day schools for Aboriginal groups. This created a need to consider means by which the Canadian government could discharge its treaty obligations.[289] During the late 1870s, the Canadian government shifted its focus from on-reserve schooling to residential schooling, both because the latter was perceived as an effective means for transforming Aboriginal groups on the Plains into agricultural, sedentary communities, and because government officials felt that residential schools increased government control over Aboriginal peoples.[290]

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[287] Miller, "The State," 193.

The use of residential schools for the delivery of a European-style education to Aboriginal children was not a novel concept in the 1880s. In fact, the idea of residential schooling for Aboriginal children already had a tradition that stretched back several centuries. From the beginning, that tradition had centred on Churches and missionary societies rather than the state.[291] Residential schools dated back as early as 1620, when the Récollet order set up a boarding school in New France. Similarly, missionary orders and humanitarian societies established a number of residential schools in the Maritime provinces in the late eighteenth century, and in Upper Canada in the early nineteenth century. Thus, when the British government started to recast its Aboriginal policy from military alliance to assimilation in the 1830s, "the churches were well established as providers of evangelical and educational facilities, including residential schools in a few locations."[292]

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[288] Titley, *A Narrow Vision*, 75.

[289] See, *inter alia*, Miller, "The State," 194; and Miller, *Shingwauk*, 97-100.

[290] Miller, *Shingwauk*, 100-101; Wotherspoon/ Satzewich, *First Nations*, 119-120; and Milloy, *A National Crime*, 32.

[291] For an overview of the pre-Confederation history of residential schools for Aboriginal children, see especially Miller, *Shingwauk*, Chapters 2 and 3; and Milloy, *A National Crime*, Chapter 2.

Throughout the early 1830s, Upper Canadian officials sought to establish day schools in Aboriginal communities as a means for imparting new economic skills to those communities and for assimilating them into Euro-Canadian society. However, by the mid-point of that decade there were increasing doubts that day schools were an effective tool for achieving these objectives.[293] The colonial government perceived this failure as the result of Aboriginal resistance to its assimilation policy - a policy that it continued to see as unproblematical and in the best long-term interest of Aboriginal peoples themselves. In 1844, for example, the "Bagot Commission concluded that the failure of the day schools was rooted not in inadequate funding or assimilationist pressures on Indians, but on the influence that parents exerted when the young scholars returned home from class."[294] The solution was, therefore, not to abandon the state's assimilation strategy, but to eliminate obstacles to its successful implementation. Since they effectively removed Aboriginal children from the influence of their parents and of Aboriginal communities as a whole, residential schools were regarded as superior to day schools in this respect. Following the recommendations of the Bagot Commission, several manual labour schools (the precursors of "industrial schools") were established in Upper Canada/ Canada West. Both the state and the Churches were involved in operating these schools.[295]

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[292] Miller, *Shingwauk*, 73.

[293] Miller, *Skyscrapers*, 130-131.

[294] Miller, *Skyscrapers*, 134.

While pre-Confederation arrangements provided a well-established model for Aboriginal education that the government could draw on, and while stipulations of the BNA Act and western treaties prompted the government to become actively involved in Aboriginal schooling, it was the so-called Davin Report that provided the immediate impetus for the government's decision to establish industrial schools.[296] In 1879, the federal government appointed Nicholas Davin to study the system of Aboriginal industrial schools that had emerged in the United States, and to make recommendations for the establishment of a similar system in Canada. In the US, industrial schools constituted an integral part of a programme of "aggressive civilization," that is, a concerted attempt at assimilating Aboriginal groups into Euro-American society. Some of these schools were operated directly by the state through Indian agencies, while others were run by various churches.[297]

In studying the US-system, Davin came to the conclusion that day schools had failed to achieve assimilation due to the continued influence of Aboriginal communities on Aboriginal children. The key to effective assimilation was, therefore, to separate Aboriginal children from their parents and from Aboriginal communities.[298] Davin also became convinced that the Churches should play an active role in Aboriginal education in order to "ensure a teaching body of superior moral calibre [...]."[299] Based on his investigation of Aboriginal industrial schools in the United States, as well as consultations with Church and state officials in the Canadian west, Davin recommended that the federal government establish four industrial schools in Canada; those schools should be denominational in character.[300] The federal government largely accepted these recommendations, although it initially established only three industrial schools.

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[295] For a discussion of the emergence of industrial schools in what is today Ontario, and their subsequent expansion to the Canadian west see, *inter alia*, Miller, *Shingwauk*, 61-88; Miller, *Skyscrapers*, 135-136; and Titley, *A Narrow Vision*, 76.

[296] See, *inter alia*, Milloy, *A National Crime*, 7-8; Miller, *Shingwauk*, 101-102; and Wotherspoon/ Satzewich, *First Nations*, 120.

[297] Titley, *A Narrow Vision*, 76.

Finally, the establishment of industrial schools and the expansion of a state-financed residential school system was the result of fundamental changes in European-Aboriginal power relations, and concomitant changes in the attitudes of colonial government officials to Aboriginal communities.[301] In a nutshell, the colonial state ceased to regard Aboriginal peoples as allies, and instead came to regard them as liabilities. From the beginning of European colonization to the early nineteenth century, European powers had perceived Aboriginal nations as valuable military allies and economic partners. There was little desire to Europeanize Aboriginal societies, since it was precisely traditional indigenous skills that made Aboriginal communities a vital link in the lucrative fur trade and valuable allies in military struggles between European powers and settler societies for domination of the North American continent. European powers consequently had a vested interest in maintaining good relations with Aboriginal nations. This interest was reflected, for example, in Britain's Royal Proclamation of 1763, which determined that the only legitimate method of acquiring land from Aboriginal peoples was by way of state treaties.[302]

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[298] See, *inter alia*, Milloy, *A National Crime*, 8.

[299] Titley, *A Narrow Vision*, 77.

[300] See, *inter alia*, Titley, *A Narrow Vision*, 76; Miller, *Shingwauk*, 102-104; Wotherspoon/ Satzewich, *First Nations*, 120.

[301] For the following, see, *inter alia*, Miller, *Skyscrapers*, chapter 5; and Dickason, *Canada's First Nations*, 189-[illegible]4.

By the mid-nineteenth century, however, the attitudes of colonial government officials had undergone a dramatic change: Aboriginal communities were no longer regarded as valuable allies, but rather as obstacles to development. This sea-change can be attributed to several factors: the end of warfare involving European powers and settler societies, large-scale European immigration, and significant economic changes.

The contest between France and Great Britain for domination of the North American continent had, by the late eighteenth century, been resolved in favour of Great Britain. The British-French conflict was soon replaced by conflicts between Great Britain and the United States. Relations between those two countries remained tense for several decades after the war of American independence. Those tensions erupted into war once more in 1812. In the decades following the war of 1812, however, relations between Great Britain and the US improved and assumed a peaceful character. Once the United States no longer posed an acute military threat and the borders of Great Britain's North American possessions were thus secure, Aboriginal groups ceased to be valuable military allies to the British Crown. Instead, the Crown increasingly regarded them as social problems and as wards of the settler state.[303]

At the same time as Aboriginal groups lost their military value to Great Britain, the

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[302] See, *inter alia*, Miller, *Skyscrapers*, 115-116.

[303] See, *inter alia*, Wotherspoon/ Satzewich, *First Nations*, 117; Titley, *A Narrow Vision*, 2; and Miller, *Skyscrapers*, 118.

British colonies in North America witnessed a substantial influx of immigrants. For example, Aboriginals represented roughly ten percent of Upper Canada's population at the conclusion of the war of 1812. By the end of the 1840s, European immigration had "reduced the Natives to demographic insignificance."[304] These demographic changes brought with them significant economic and attitudinal changes as well. Due to the decline of the fur trade, Aboriginal nations had already lost much of their former economic value to European colonial powers by the early nineteenth century. The influx of European settlers further recast Aboriginal groups as impediments to progress, rather than as economic partners. The colonial (and later Canadian) government was faced with growing demands for opening reserve lands to European settlement.[305] This did little to further respect for Aboriginal claims to traditional Aboriginal lands, or even for continued Aboriginal control over the limited lands set aside for exclusive Aboriginal use by the reserve system - a system which the colonial state itself had established. "The association [between Aboriginals and Europeans] was no longer one that emphasized military alliance, but one in which the dominant partner sought the removal of the Indian from the path of agricultural settlement."[306]

Government officials in Upper Canada quickly settled on assimilation as the appropriate means of effecting that removal (an approach that continued to inform government policy after

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[304] Miller, *Skyscrapers*, 117.

[305] See, *inter alia*, Miller, *Skyscrapers*, 117. Titley, *A Narrow Vision*, 20, offers a brief discussion of pressures on the government to open reserve lads for settlement at the turn of the twentieth century.

[306] Miller, *Skyscrapers*, 103-104.

Confederation).[307] The programme of "civilization" the colonial state embarked on in the 1830s consisted of the concentration of Aboriginal peoples in permanent settlements, their instruction in the English language and agricultural skills, and their conversion to Christianity.[308] "Existing Christian missionary endeavours provided the foundation for such a policy in Upper Canada. [...] These religious agencies stood ready to assist officialdom with its new policy in the 1830s."[309]

The policy of "civilization" was enshrined in documents such as the Gradual Civilization Act of 1857, which stipulated that adult Aboriginal males of "good character" who were able to speak French or English and were free of debt would be eligible for "enfranchisement," that is, the acquisition of citizenship status. In order to make citizenship an attractive option, enfranchised males were to receive fifty acres of their band's reserve lands, as well as a share of band funds.[310] Aboriginal groups widely perceived this as an attempt at destroying their existence as collectivities. The policy met with little success, a failure that the Department of Indian Affairs largely attributed to the recalcitrance of Aboriginal band governments.[311] The rationale underlying the Gradual Civilization Act continued to inform the settler state's Aboriginal policy after Confederation. The goal of that policy - expressed most prominently in the 1876 Indian Act and its subsequent amendments - was, in John A. Macdonald's words, "to do away with the tribal system and assimilate the Indian people in all respects with the inhabitants of the Dominion, as speedily as they are fit to change."[312]

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[307] See, *inter alia*, Miller, *Shingwauk*, 75; Miller, *Skyscrapers*, 118-119; Dickason, *Canada's First Nations*, 119; and Milloy, *A National Crime*, 3.

[308] See, *inter alia*, Titley, *A Narrow Vision*, 3; and Miller, *Skyscrapers*, 126.

[309] Miller, *Skyscrapers*, 126.

[310] See, *inter alia*, Dickason, Canada's First Nations, 225; Titley, *A Narrow Vision*, 4; Miller, *Skyscrapers*, 139-142; and Milloy, *A National Crime*, 19.

[311] Milloy, *A National Crime*, 20.

Colonial policy-makers regarded education, and particularly education in residential schools, as one of the chief means for promoting assimilation.[313] Thus, according to Milloy, the members of the Bagot Commission held that

> education was, of all the elements of the civilizing system, the most important. They proposed, therefore, as well as the continuation of on-reserve common schools, the beginning of 'as many manual labour or Industrial schools' as possible. [...] In such schools, under the supervision of non-Aboriginal teachers and isolated from 'the influence of their parents,' pupils would 'imperceptibly acquire the manners, habits and customs of civilized life.'[314]

The logic behind this thinking was straightforward: from the mid-1840s onwards, settler state officials felt that Aboriginal adults could be "civilized" only with considerable difficulty or not at all, and were therefore unsuitable targets for assimilation.[315] If the Aboriginal population was to be assimilated successfully, efforts to that effect would therefore have to be focused on Aboriginal children. The latter could be assimilated into European society through the educational system, which would impart to them European values and skill sets that would enable them to participate and succeed in Euro-Canadian society.

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[312] Quoted in Milloy, *A National Crime*, 6. As Titley observes, the Indian Act "was amended over the years, but in its general thrust and intent, it changed little. It was designed to protect the Indians until they acquired the trappings of white civilization. At that point, they were supposed to abandon their reserves and their special status and disappear into the general population" (Titley, *A Narrow Vision*, 13).

[313] See Titley, *A Narrow Vision*, 15, 18; Milloy, *A National Crime*, 3.

[314] Milloy, *A National Crime*, 13.

[315] Milloy, *A National Crime*, 17, 25-26.

State officials quickly determined that day schools were inadequate to accomplish this task, since they afforded little control over student attendance. More importantly, day schools did not remove students from the continued influence of Aboriginal communities, an influence that was seen as an obstacle on the road to assimilation. Educating Aboriginal students in a residential setting, at locations geographically removed from Aboriginal communities, promised to offer a solution to both problems: not only would it be easier to monitor and ensure student attendance, but student exposure to factors that militated against their assimilation - their parents and communities - would be sharply reduced as well. Department of Indian Affairs officials felt that residential schools would therefore be more effective tools of assimilation than, and thus superior to, existing day schools.[316] In other words, state officials did not regard the separation of Aboriginal children from Aboriginal communities as an unfortunate but unavoidable by-product of residential schooling. Rather, they saw it as one of the latter's chief virtues. In its 1889 report, the Department of Indian Affairs touted these virtues as follows: "The boarding school disassociates the Indian child from the deleterious home influences to which he would otherwise be subjected. It reclaims him from the uncivilized state in which he has been brought up."[317]

The emphasis on education as a central means of assimilation, and on residential schools as effective tools of assimilation, thus emerged well before Confederation. The establishment of industrial schools at Battleford, Qu'Appelle and High River in 1883, the subsequent expansion of the industrial and boarding school system must be understood as the concrete expression of a "civilization" paradigm of Aboriginal policy that was based on deeply racialized assumptions about who constituted the "Other" in Canada's settler society and about the nature, capacities and limitations of Aboriginal and European cultures. As Titley puts it:

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[316] See, *inter alia*, Milloy, *A National Crime*, 7; and Dickason, *Canada's First Nations*, 309-310.

[317] Quoted in Miller, *Skyscrapers*, 264.

> The education of native children in day and residential schools was one of the key elements in Canada's Indian policy from its inception. The destruction of the children's link to their ancestral culture and their assimilation into the dominant society were its main objectives.[318]

Residential schools and state territoriality. The establishment and expansion of Canada's residential schools for Aboriginal children illustrates the impact of state territoriality on state policies geared towards controlling national minorities in a number of ways. First, the residential school system and the assimilation paradigm that gave rise to it were clearly articulated with the idea of Canada as a white and Christian space. As the preceding sections show, the Canadian state was concerned with opening up Canadian territory to European settlement. The assimilation of Aboriginal peoples through the residential schools system was part of that strategy in two ways: not only would Aboriginal peoples become Christianized and be absorbed into Euro-Canadian society (thus eradicating a racialized "Other" from Canadian soil), but their lands would likewise lose special status. Canadian policy-makers anticipated that assimilation would ultimately spell the end of the reserve system, as evident in the enfranchisement provisions of the Gradual Civilization Act and the Indian Acts. The establishment of residential schools can, then, be read as an attempt by the Canadian state not only to homogenize its population, but to consequently also homogenize its territory. Put differently, residential schools were part and parcel of a strategy that aimed at extending a logic of uniform territoriality throughout Canada.

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[318] Titley, *A Narrow Vision*, 75.

Second, the establishment of Aboriginal residential schools points to some of the effects of state territoriality on the production of national groups. For example, the changes in settler state attitudes towards Aboriginal peoples - the latter's redefinition from allies to wardens - was in part grounded in substantial demographic changes, specifically the influx of European settlers. State territoriality provided colonial governments, and later the Dominion, with the authority to control movements across and within their borders. It engendered the idea that the colonial state had the legitimate right to develop and dispose of all lands within its boundaries, including the management of immigration and settlement. To the extent that treaty rights and the reserve system undermined that idea, they were quickly challenged by the geographical expansion of Euro-Canadian society.

Third, state territoriality has had an uneven impact on the opportunities and resources available to different ethnic and national groups. The establishment of Aboriginal residential schools provides a case in point. By virtue of being constituted by the settler state as a racialized "Other," as subject to the state but lacking citizenship status, as culturally inferior and as geographically separate from Euro-Canadian society, Canada's Aboriginal groups had little access to, let alone control over, political decision-makers of the settler state. Rather, the settler state sought to gradually extend its control over Aboriginal groups. Residential schools were one means to achieve and increase such control. This control was exercised in ways that furthered the interests of Euro-Canadian society, for example by enforcing a particular vision of Canadian space as racially homogeneous (that is, white), or by inscribing the logic of agricultural development on former Aboriginal lands.

Fourth, and relatedly, state territoriality fundamentally affected majority/ minority patterns and ideas of "who belongs." A territorial definition of political authority contributed to the status of Aboriginal peoples as minorities in the sense that they were locked into a common political space with a settler society that quickly exceeded them in numbers, construed them as racialized "Others" and proceeded to marginalize them spatially, politically and economically. Finally, Aboriginal residential schools shed some light on the implications of state territoriality for the orientation of political behaviour. For example, the settler state objective to eliminate internal heterogeneity cannot be understood without taking into account the articulation between territorial ideas of political space and notions of race.

4.3 WWII and the treatment of Japanese Canadians

Historical developments. Since the nineteenth century, Canada had been home to a community of several thousand Japanese and Japanese Canadians. At the onset of WWII, Canadian residents of Japanese descent numbered roughly 23,000. The vast majority, about 22,000, lived in British Columbia (mostly in the coastal areas), and many of them were employed in the fisheries sector. After the Japanese bombing of Pearl Harbour in December 1941, the Royal Canadian Navy, on orders issued by the Canadian government under the terms of the War Measures Act,[319] seized

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[319] The War Measures Act was passed in 1914. It bestowed a broad range of powers on the Canadian government in order to effectively defend Canada's security in times of war. Among others, these included powers of censorship, arrest, deportation, and seizure and disposition of property. See Ken Adachi, *The Enemy That Never Was* (Toronto: McClelland and Stewart, 1976), 419-420, for the text of the Act.

1,200 boats owned and operated by persons of Japanese descent. By Order-in-Council, nearly the entire fleet was sold to non-Japanese individuals several months later, at prices well below their market value. Likewise in December 1941, all persons of Japanese descent (including those who were Canadian citizens) were required to register with the Registrar of Enemy Aliens, to guarantee "good behaviour," and to "obtain permission for any movement from one locality to another."[320]

In January 1942, Canada's federal government took the additional step of issuing Order-in-Council P.C. 365,[321] which permitted the Minister of National Defense

> to declare any area in Canada a 'protected area' from which enemy aliens could be excluded. The government also announced that it intended to remove from the protected areas, soon to be defined in British Columbia, all Japanese aliens of military age and to create a Japanese civilian corps to work on projects deemed to be of national interest.[322]

This was followed by Order-in-Council P.C. 1486 in February of the same year, which empowered the Minister of Justice, among other things, to remove anyone - regardless of citizenship status - from a protected area, to prevent them from entering or exiting a protected area, to impose restrictions on anyone's employment, movements, associations and communications in a protected area, and to detain, "in such place and under such conditions as he may from time to time direct, [...] any or all persons ordinarily resident or actually present in [a] protected area."[323] This order was subsequently used to "evacuate" almost the entire population of Japanese descent from the Pacific coast, and to relocate them to a variety of controlled spaces - such as internment camps, work camps, and prisoner of war camps.

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[320] Adachi, *Enemy*, 200; see also Kelley/ Trebilcock, *Making of the Mosaic*, 291-292.

[321] Several of the orders-in-council central to an examination of the evacuation, internment and relocation of Japanese Canadians during and after WWII are reproduced, either completely or in part, in Adachi, *Enemy*, 422-430.

[322] Kelley/ Trebilcock, *Making of the Mosaic*, 293.

The "evacuation" of all persons of Japanese origin from the coast was announced on February 26, 1942, and the British Columbia Security Commission was established in March of the same year by Order-in-Council P.C. 1665 to organize and control the process. Any property located in the protected area that the evacuees were unable to take with them was, by the same order, to be placed under the control of the Custodian of Alien Property.[324] While the purpose of placing property held by individuals of Japanese descent in custody was supposedly only protective, the Custodian began to liquidate part of the assets seized in the summer of 1942.[325] Order-in-Council P.C. 469, issued in January 1943, formally gave the "Custodian the power to dispose of properties and belongings in his care without the owners' consent."[326] In effect, Japanese Canadians were expropriated; their property was sold at prices considerably below fair market value. In addition, proceeds generated from those sales were used to offset the cost of maintenance incurred by the former Japanese Canadian owners due to and for the duration of their internment.[327] Making internees responsible for their upkeep was one of a variety of means used by the government to encourage the "voluntary" relocation of internees further east.[328]

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[323] Quoted in Adachi, *Enemy*, 424.

[324] See Adachi, *Enemy*, 217-218; Mona Oikawa, "Cartographies of Violence: Women, Memory, and the Subject(s) of the 'Internment'," in Sherene Razack, ed., *Race, Space, and the Law: Unmapping a White Settler Society* (Toronto: Between the Lines, 2002), 71-98, at 79.

[325] See Adachi, *Enemy*, 233.

[326] Arthur Miki, "Democracy Betrayed: A Case for Redress. The Japanese Canadian Experience," in K. Victor Ujimoto and Josephine Naidoo, eds., *Asian Canadians: Contemporary Issues* (Winnipeg: University of Manitoba, 1986), 104-119, at 111.

After WWII, the Canadian government implemented a two-pronged policy of deportation and dispersal, aimed respectively at reducing the presence of individuals of Japanese ancestry in Canada overall, and at preventing their concentration in British Columbia. The government's preferred strategy for dealing with the "Japanese problem" was - at least initially - the removal of Japanese Canadians and Japanese nationals to Japan. This strategy was advocated early during the war by leading federal politicians from British Columbia, including at the Cabinet level by Ian Mackenzie. In 1943, the Department of External Affairs began to examine the possibility of achieving "the voluntary return of Japanese aliens to Japan after the war, along with the removal of Japanese Canadians and aliens who were deemed disloyal to Canada."[329]

The Canadian government's preference for removal was reflected in a policy statement by Prime Minister Mackenzie King, issued in the House of Commons in the summer of 1944. According to King, the government planned to remove those Japanese or Japanese Canadian residents deemed "disloyal" to Canada to Japan, and to discourage the remainder of the Japanese and Japanese Canadian community from staying in Canada. In aid of this goal, all persons of Japanese ancestry over the age of 16 were required in 1945 to fill out a survey, indicating whether they intended to stay in Canada or wished to be relocated to Japan. As Makabe points out, it "cannot be overemphasized that Japanese Canadians were actively urged by the government to 'return' to Japan."[330] The government provided a number of incentives to encourage members of the Japanese community in Canada to opt for removal, such as covering expenses for traveling to Japan, the ability to collect relief benefits while waiting for transportation to Japan, the provision of funds in Japan equal to assets still held in Canada, and monetary resettlement assistance for those without Canadian assets. Simultaneously, the government sought to actively discourage Japanese from staying in Canada. For example, internees choosing to remain in Canada were to be transferred to a camp in Kelso, BC. They were to remain there until the government had found them employment outside British Columbia. In a similar vein, resettlement allowances for those deciding to stay in Canada were less than 25 percent of the allowance granted "returnees" to Japan.[331]

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[327] See, *inter alia*, Tomoko Makabe, *The Canadian Sansei* (Toronto: University of Toronto Press, 1998), 22; and Kelley/ Trebilcock, *Making of the Mosaic*, 296.

[328] Kelley/ Trebilcock, *Making of the Mosaic*, 296.

[329] Kelley/Trebilcock, *Making of the Mosaic*, 298.

Faced with those conditions, about 7,000 males of Japanese ancestry chose relocation to Japan; once their wives and dependent children were added, the total number rose to roughly 10,500 - close to half the community. However, the government's removal policy quickly encountered resistance from a number of quarters: many members of the Japanese community itself objected to the policy and challenged it in court; similarly, most of those who had initially signed a request for relocation to Japan later withdrew that request. In addition, several groups in the broader Canadian society opposed the policy once the conditions under which requests for removal were obtained became public knowledge. Finally, the Supreme Allied Command in

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[330] Makabe, *Canadian Sansei*, 24.

[331] Kelley/Trebilcock, *Making of the Mosaic*, 298-299.

Japan feared that relocation of several thousand individuals to Japan would exacerbate difficult post-war conditions in Japan. Ultimately, about 4,000 of the approximately 23,000 Japanese Canadians and Japanese citizens residing in Canada were "repatriated" to Japan.[332]

In the face of resistance to the outright removal of Japanese and Japanese Canadians from Canadian soil, the Canadian government changed its emphasis from a policy of deportation to a policy of dispersal. It sought to encourage the relocation of those residents of Japanese origin remaining in Canada to the Prairies and Ontario. It did so by providing a number of incentives for relocating to the East, such as an increased resettlement allowance and assistance with the resettlement process. Simultaneously, war-time policies aimed at preventing or discouraging the return of members of the Japanese community to British Columbia (for instance, restrictions on mobility, ownership, and employment) continued to be in effect for several years after the end of the war; they were only lifted in 1949. It was only after another four decades and persistent pressure from Japanese Canadians that the federal government issued an apology for the treatment of Japanese Canadians during WWII. In addition to the 1988 apology, the government committed a total of 300 million dollars to compensatory payments, a Japanese Canadian community fund, and funding for a race relations foundation.[333]

The state policies enacted during the 1940s had a lasting impact on the Japanese

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[332] Kelley/ Trebilcock, *Making of the Mosaic*, 305; Miki, "Democracy Betrayed," 108; R.L. Gabrielle Nishiguchi, "'Reducing the numbers': The transportation of the Canadian Japanese (1941-1947)," Thesis (M.A.), Carleton University, Ottawa, 1993, 3. It is worth noting that most of those individuals had been born in Canada or were Canadian citizens; many did not speak Japanese and had never before been to Japan.

[333] On the Japanese redress campaign and settlement see, *inter alia*, Roy Miki, *Redress: Inside the Japanese Canadian Call for Justice* (Vancouver: Raincoast Books, 2004).

Canadian community. This is perhaps most immediately evident when mapping the location of Japanese Canadians in Canada. By the time settlement restrictions were removed in the late 1940s, Japanese Canadian settlement patterns had been fundamentally altered. Up to WWII, the Japanese Canadian community had been concentrated almost exclusively in British Columbia; after WWII, it was dispersed throughout the country. In 1941, 95.5 percent of Japanese Canadians lived in British Columbia; this share had dropped to 33.1 percent in 1951. In 1951, 39.6 percent of Japanese Canadians lived in Ontario and 21.8 percent in the Prairie provinces. This new pattern remained relatively stable throughout the post-WWII era; thus, in 1971, 36.5 percent of Japanese Canadians lived in British Columbia, 41.9 percent in Ontario and 16.4 percent in the Prairie provinces.[334] In 1991, 41.3 percent lived in British Columbia, 37.1 percent in Ontario, and 16.5 percent in the Prairie provinces.[335] As of 2001, 44.6 percent of Japanese Canadians resided in British Columbia, 34.0 percent in Ontario, and 16.4 percent in the Prairies (see Table 4.1).

Causes, Origins, Intentions. The "evacuation" of Japanese Canadians from the Pacific coast was justified by the Canadian government as a necessary security measure. The Pacific coast was described as a potential target for Japanese invasion, and Canadian residents of Japanese origin were painted as potential collaborators and, hence, a security risk. This argumentation was not new. In 1938, for instance, former Prime Minister R.B. Bennett supported calls for tougher restrictions on Japanese immigration to Canada and, pointing to Japan's expansion in the Pacific, "warned rather obliquely that Canada had to be prudent in protecting its own coast and remember that its residents of Japanese descent were knowledgeable about that coastline, its ports and harbours, and other resources of British Columbia."[336] Similarly, Cabinet Minister Ian Mackenzie was a vocal purveyor of Japanese invasion scenarios.[337]

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[334] Based on Adachi, *Enemy*, 413, and Peter Ward, *The Japanese in Canada* (Ottawa: Canadian Historical Association, 1982), 7.

[335] Based on Makabe, *Canadian Sansei*, 17.

In fact, the security threat posed by Japanese residents to Canada was non-existent. In 1938, a government-appointed Board of Review found no evidence that members of the Japanese community in Canada were engaged in espionage activities on Japan's behalf. Similarly, senior RCMP, military, navy and civil service personnel had been insisting years before WWII that a Japanese invasion of the West Coast was unlikely, and that Japanese Canadians did not represent a significant security risk; they reiterated that position soon after the outbreak of the war in the Pacific.[338] The security justification for the "evacuation" and related measures also seems disingenuous in light of the fact that German attacks on Canada's East coast were a more credible military threat than a Japanese invasion of the West coast, yet there was no attempt at wholesale internment of German Canadians in the Maritime provinces. Moreover, if security concerns had been genuine, it is not clear why the Canadian government would not have opted for taking the less dramatic step of shoring up surveillance of the Japanese Canadian community.[339]

Overall, it seems clear that the rationale behind the "evacuation" was based on racial prejudice rather than security concerns.[340] Individuals of Japanese origin had been thoroughly racialized and constituted as an alien, dangerous "Other" in Canada - particularly in British Columbia - since the nineteenth century. Japanese and other Asian immigrants to Canada were seen as being unable to assimilate to Western culture; therefore, their presence was perceived as a threat to the integrity of Western culture. Japanese immigration was also perceived as threatening in another, economic sense: since Japanese immigrants provided cheap labour, they were seen as dangerous and unfair competition to white workers, especially in economic sectors where they were heavily concentrated (specifically agriculture, forestry, and the fisheries). As Peter Ward points out, most white British Columbians were deeply invested in the idea of a "White Canada":

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[336] Kelley, Trebilcock, *Making of the Mosaic*, 289.

[337] Kelley/ Trebilcock, *Making of the Mosaic*, 290.

[338] See, *inter alia*, Miki, "Democracy Betrayed," 109; Kelley/ Trebilcock, *Making the Mosaic*, 290-292.

[339] Kelley/ Trebilcock, *Making of the Mosaic*, 305-306.

> White British Columbians yearned for a racially homogeneous society. They feared that heterogeneity would destroy their capacity to perpetuate their values and traditions, their laws and institutions - indeed, all those elements of their culture embraced by the White Canada symbol.[341]

The extent of anti-Japanese racial prejudice in British Columbia was evident in routine appeals by British Columbian politicians to racist sentiments,[342] as well as several discriminatory measures taken by the province's legislature and government against residents of Japanese ancestry well before WWII. For instance, Japanese Canadians lost their right to vote in British Columbian provincial elections in 1895. Since voter lists on the federal level were drawn from those on the provincial level, that meant that the overwhelming majority of Japanese Canadians also lost their right to vote in federal elections. In addition, British Columbia's provincial government made several attempts at restricting Japanese immigration and employment opportunities in the late nineteenth and early twentieth centuries. While the federal government disallowed those pieces of legislation for reasons of imperial policy,[343] a number of other restrictions were put in place by Ottawa itself. In 1908, Canada negotiated a "Gentlemen's Agreement" with Japan to the effect that the latter would voluntarily restrict Japanese emigration to Canada. In 1923 and 1928, this agreement was renegotiated; restrictions on Japanese immigration were increased both times.[344]

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[340] Makabe, *Canadian Sansei*, 25.

[341] Peter Ward, *White Canada Forever: Popular Attitudes and Public Policy Toward Orientals in British Columbia*, second edition (Montreal/ Kingston: McGill-Queen's University Press, 1990),169.

[342] Adachi, *Enemy*; Ann Gomer Sunahara (1980), "Federal Policy and the Japanese Canadians: The Decision to Evacuate, 1942," in K. Victor Ujimoto and Gordon Hirabayashi, eds., *Visible Minorities and Multiculturalism: Asians in Canada* (Toronto: Butterworths, 1980), 93-120, at 97.

The prevalence of anti-Japanese racist attitudes also explains the King government's deportation and dispersal policies. As King remarked in his aforementioned policy speech in 1944, the federal government's position was that

> it would be unwise and undesirable [...] to allow the Japanese population to be concentrated in that province [British Columbia] after the war. [...] The sound policy and the best policy for the Japanese Canadians themselves is to distribute their members as widely as possible throughout the country where they will not

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[343] Great Britain had concluded a Treaty of Commerce and Navigation with Japan in 1894, granting each country's citizens "full liberty to enter, travel or reside in any part of the dominions and possessions of the other contracting party" (quoted in Adachi, *Enemy*, 41), followed by the Anglo-Japanese Alliance against Russia in 1902. This made the unilateral imposition of restrictions on Japanese immigration by Canada impolitic, since such measures might have jeopardized the Anglo-Japanese Alliance.

[344] Sunahara, "Federal Policy," 95.

create feelings of racial hostility.[345]

Aside from reducing "racial hostility," dispersal was also seen as a means to encourage assimilation, a goal that itself was widely accepted and supported in Canadian society at the time.

The WWII treatment of Japanese Canadians and state territoriality. The "evacuation" of Japanese Canadians from the Pacific coast, their internment, dispossession and relocation, as well as the reasons behind those measures demonstrate the significance of state territoriality for the nature of societal responses to ethnic and national diversity in several ways. First, the construction of political and geographical space was thoroughly racialized: Canada, and in consequence its state territory, was perceived by many white Canadians as a distinctly white space, as the notion of "White Canada" clearly suggests. This racialized construction of territory contributed to low acceptance of racial diversity. Racialized "Others" were often seen as an alien and threatening presence that undermined the presumed and desired racial homogeneity of Canadian territory.

Second, the treatment of individuals of Japanese origin by the Canadian state before, during and after WWII points to the impact of state territoriality on the production of ethnic and national groups. Thus, state territoriality as a means of political control had a considerable effect on who was allowed to enter and remain in Canadian territory; the successive immigration restrictions imposed on Japanese in the early twentieth century, as well as the Canadian government's partially successful attempt at removing residents of Japanese ancestry to Japan after the conclusion of WWII, clearly illustrate this point. Similarly, state territoriality had a significant and lasting impact on the settlement patterns and group cohesion of Japanese Canadians: the various restrictions on Japanese mobility, employment and property rights during and after WWII had a lasting impact on the settlement patterns of Japanese in Canada, and effectively undermined their cohesion as a group.

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[345] Quoted in Adachi, *Enemy*, 431 and 433.

Third, the impact of state territoriality on Japanese Canadians was markedly different from its implications for members of the dominant segment of society (whites). Organizing political space on the basis of territory left whites in a position of power and control over a racialized Japanese/ Japanese Canadian group occupying the same political space. That group was subsequently marginalized socially, economically, and politically. Thus, Japanese residents in Canada had less access to material political resources (the disenfranchisement of Canadian citizens of Japanese origins is a case in point) and political decision-makers. State territoriality promoted the interests of whites and afforded them greater means of enforcing their vision of space - in particular, the vision of a racially homogeneous, White Canada. In other words, it placed whites in a position of privileged access to material and symbolic political resources, and enabled them to pursue its own group interests at the expense of Japanese Canadians.

Fourth, state territoriality had a significant impact on the relative status enjoyed by Japanese in Canada and Japanese Canadians on one hand, and white Canadians on the other. Perhaps most obviously, it contributed to the production of minority status for one, and majority status for the other. White majority status, the self-understanding of whites in British Columbia as the dominant group, and putative challenges to that dominant status by racialized minority groups (prominently including Japanese) that were allegedly experiencing a rapid increase in numbers, in turn tied in with perceptions of who belonged in Canada and who did not.

Finally, the treatment of Japanese Canadians during and after WWII illustrates some of the implications of state territoriality for the orientation of political behaviour, aspirations and identities. Thus, the articulation between territory and racialized demographic patterns - as well as the majority/ minority situations it helped generate - influenced the aspirations of white Canadians in British Columbia and elsewhere (for instance, to end "unfair" competition by Japanese residents, to restrict the entry of Japanese immigrants to Canadian territory, and to remove Japanese residents from said territory).

4.4 Conclusion

State territoriality has had a profound impact on state policies aimed at controlling minority populations. As the preceding discussion of the Manitoba Schools Question, the establishment of Aboriginal residential schools, and the treatment of Japanese Canadians in World War II has shown, that impact can be observed in some of the ways the Canadian state has historically produced political space and national groups. Thus, the idea of state territoriality articulated with notions of race and nation in ways that constituted Canada as a white, Anglo-Protestant space and marginalized groups that did not fit this description (e.g., Aboriginal peoples, Francophones, Japanese Canadians). This notion of Canada as essentially a British and Protestant country was often accompanied by low tolerance for difference; ethnic and national diversity, the heterogeneous quality of Canadian political (territorial) space, was not seen as cause for celebration, but as cause for concern. At the same time, the Canadian state played an active role in the production of national groups on its territory through a variety of means, such as its immigration, settlement, employment and education policies.

State territoriality also had a significant and unequal effect on the opportunities available to different national groups, the symbolic and material resources at their disposal, and their ability to enforce particular visions of space. Similarly, state territoriality played a role in creating majority/minority patterns, in constituting particular ethnic, national or racial groups as dominant or subordinate, and in orientating political aspirations, identities and behaviour. Since it locked different population groups into a common, territorially defined political space over which they could exercise differential degrees of control, state territoriality effectively contributed to the exclusion of certain population groups from the political decision-making process. By extension, state territoriality also had a profound effect on the ability of different population groups to claim ownership over Canada's territory.

Table 4.1 Japanese Canadian population by province, territory, and region, 2001

Province/ Territory	**Japanese Canadian population**	**Percentage of total Japanese Canadian population**
Newfoundland	70	0.1
Prince-Edward-Island	80	0.1
Nova Scotia	420	0.6
New Brunswick	130	0.2
Atlantic provinces	**700**	**1**
Quebec	**2830**	**3.9**
Ontario	**24925**	**34**
Manitoba	1665	2.3
Saskatchewan	435	0.6
Alberta	9950	13.6
Prairie provinces	**12050**	**16.4**
British Columbia	**32730**	**44.6**
Yukon	35	0
Northwest Territories	40	0.1
Nunavut	0	0
Territories	**75**	**0.1**
Canada	**73315**	**100**

Source: Canada: Statistics Canada, "Visible minority population, by province and territory (2001 census)" [Table] (http://www40.statcan.ca/l01/cst01/demo52a.htm through demo52d.htm, accessed 17 November 2005).

5.

NEUTRALITY

In contrast to policies informed by a control approach, state policies within the "neutrality" category are not explicitly aimed at privileging certain groups and expressions of ethnic diversity, or at marginalizing others. Although this may, in fact, be their outcome (for reasons that will be discussed below), this is not their objective. In fact, their objectives are typically to achieve equality of treatment, freedom of choice and social justice. These objectives are understood in individualist terms: neutrality approaches are concerned with equality, liberty and justice for individuals rather than groups. The individualist ethos animating neutrality approaches is grounded most clearly in - and associated most strongly with - "traditional liberalism" (to borrow a term from Veit Bader).[346]

Traditional liberalism, in the sense the term is employed here, accords ontological and moral primacy to the individual. It operates within a framework that portrays society as composed of individuals, rather than groups, and it is consequently skeptical of groups and group rights on ontological grounds. It also perceives groups and group rights as problematical concepts due to its view of the individual: traditional liberal authors such as Kant or Rawls regard individuals as possessed of reason; by virtue of sharing the property of reason, individuals are moral agents entitled to freedom of choice and to equality of treatment. Traditional liberalism therefore considers individual liberty and individual equality to be the fundamental yardsticks for assessing state policies in general, including the state's minority policies. In fact, the very legitimacy of the state - or any other agent exercising power in the public sphere - hinges on the consent of individuals to its rule (and thus ultimately on the exercise of individual choice), as well as its ability to guarantee individual liberty and equality.

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[346] Veit Bader, "The Cultural Conditions of Transnational Citizenship: On the Interpenetration of Political and Ethnic Cultures," *Political Theory* 25:6 (1997), 771-813, at 772.

From a neutrality perspective, the state must treat individuals in the same way in order to honour their claims to individual equality and individual liberty. Sameness of treatment in turn implies a treatment of individuals as undifferentiated agents: once individuals enter the public space, once they "turn on" their citizen status,[347] they leave behind their particular identities and interests, including their sense of race, gender, or place. As van Oenen points out, a

> Rawlsian citizen generally is moved only by very abstract reasons like a sense of justice, respect for the rule of law, and human dignity. There is nothing to show either that (s)he is motivated by being a member of a particular political community or culture, or that (s)he might or must act to support such a culture [...].[348]

Citizens function and must be treated solely as equal and, in a sense, "universal" (and hence interchangeable) citizens. The rights and obligations that individuals possess vis-à-vis the state derive from that universal status of citizenship, rather than from their memberships in particular groups. Culture, just as religion, properly belongs in the private sphere, but has no place in public space.[349]

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[347] Gijs van Oenen, "Turning on the Citizen: Modern Citizenship and its Cultural Hazards," *Citizenship Studies* 6:2 (2002), 109-125.

[348] Van Oenen, "Turning on the Citizen,"at 111.

[349] See, for example, Kymlicka's comment that "Western political theorists have had little explicitly to say about how to deal with ethnocultural diversity. Insofar as they

From a neutrality perspective, then, the liberal-democratic state is not and should not be concerned with an individual's group attachments, or with the fate of groups themselves. In particular, it is not the state's task to ensure equality between or the survival of ethnic groups. Ethnocultural diversity and demands for political recognition by ethnocultural groups thus do "not pose a difficult problem for liberalism - or for liberal 'political ethics.' [...] The reason multiculturalism does not pose a philosophical problem for liberalism is that liberalism's counsel is to resist the demand for recognition."[350] Formally recognizing groups in the public sphere not only raises practical issues, it also poses a threat to the equality of status individuals are entitled to as citizens, since recognition at least potentially implies differential treatment of citizens on the basis of their membership in specific group(s).

Similar to the notion of equality-as-sameness, traditional liberalism's emphasis on individual liberty militates against state recognition of group rights and identities. Traditional liberalism accepts the fact that any given society will be composed of individuals who subscribe to different conceptions of the good, and that attempts at changing this fact are destined to fail.[351] Advocates of traditional liberalism argue that individuals must be free to choose between

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had an answer at all, it was that the state should be 'neutral' with respect to ethnocultural differences and treat culture in the same way as religion - that is, as something that people should be free to pursue in their private life, but which is not the concern of the state [...]"; Will Kymlicka, "Nation-building and minority rights: comparing West and East," *Journal of Ethnic and Migration Studies* 26:2 (2000), 183-212, at 185.

[350] Chandran Kukathas, "Liberalism and Multiculturalism: The Politics of Indifference," *Political Theory* 26:5 (1998), 686-699, at 687.

[351] For the following, see Will Kymlicka, "Two Models of Pluralism and Tolerance," in David Held, ed., *Toleration: An Elusive Virtue* (Princeton: Princeton University Press, 1996), 81-105, at 81.

competing conceptions of the good: "Although liberals are not commonly skeptics about questions about the good life, they emphasize that no one should be forced to accept any particular ideal of the good life."[352] In order to enjoy legitimacy, the state can therefore not privilege any single conception of the good. Instead, the answer to a diversity of values provided by traditional liberalism is state neutrality. Conceptions of the good are conceived as a matter of individual choice; neither groups nor states can legitimately impose specific conceptions of the good on individuals. Examining different models of religious toleration, Kymlicka offers the following observation:

> In the context of Western democracies, tolerance took a very distinctive form, namely, the idea of individual freedom of conscience. It is now a basic individual right to worship freely, to propagate one's religion, to change one's religion, or indeed to renounce religion altogether. To restrict an individual's exercise of these liberties is seen as a violation of a fundamental human right.[353]

According to traditional liberals, restrictions of this kind are illegitimate regardless of whether they are imposed by the state or by groups (including ethnocultural ones). States must therefore ensure that the social order is structured in a fashion that does not permit groups to impose undue restrictions on the exercise of individual choice between conceptions of the good. Most importantly, individuals must have a right to exit a group if they no longer wish to remain a member.[354]

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[352] Chandran Kukathas, "Are There Any Cultural Rights?" *Political Theory* 20:1 (1992), 105-139, at 108.

[353] Kymlicka, "Two Models," 82.

[354] Kukathas, "Cultural Rights," 116.

The neutrality approach to ethnic and national diversity is not without its attractions, since it is based on a keen interest in the provision of social justice, liberty and fairness to all citizens, regardless of their group affiliations. At a minimum, this approach is certainly preferable to the control approaches delineated in the previous chapter, whose very core is one of unequal treatment, of entrenched privilege for some groups and the marginalization of others. Neutrality approaches hold some attraction in a second sense as well: unlike control approaches, neutrality approaches are often not simply imposed on minority groups, but reflect actual demands minority groups make on the state and the political system more broadly.

Neutrality approaches are, nonetheless, problematical on an ontological, conceptual, and historical level. The ***ontological*** primacy they accord to the individual leaves no room for recognizing, analytically or politically, the mutual constitution and interdependence of individuals and groups. They posit unitary and pre-political subjects that (ought to be able to) freely engage in the social marketplace. In contrast, theorists such as Chantal Mouffe have argued that individuals cannot be understood as unitary subjects who exist independently from, and prior to, social and political processes. Rather, individuals are traversed and constituted by a multitude of social relations. Put differently, individuals are shaped and constituted by discourses rather than merely engaging in them.[355] Relatedly, political sociology points to the role of social institutions in shaping the values, beliefs, and behavioural patterns of individuals. To ontologically divorce individuals from their location in social power relations is problematical in the context of analyzing ethnic and national diversity because it impedes the examination of systemic power differentials. As Sherene Razack points out,

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[355] See, *inter alia*, Chantal Mouffe, "Hegemony and New Political Subjects: Toward a New Concept of Democracy," in C. Nelson and L. Grossberg, eds., *Marxism and the Interpretation of Culture* (Chicago: University of Illinois Press, 1988), 89-104; Chantal Mouffe, "Radical Democracy or Liberal Democracy?" *Socialist Review* 20:2 (1990), 57-66; Chantal Mouffe, *The Return of the Political* (London: Verso, 1993).

> the concept of an independent, decontextualized individual functions to suppress our acknowledgment of the profound differences between individuals based on their situation within groups and the profound differences between groups. [...] what this notion most inhibits is our understanding of power as something other than the power of one individual to assert his or her claim over another's.[356]

Neutrality approaches are also problematical on a ***conceptual*** level, specifically regarding their conception of core concepts such as liberty, equality and state neutrality. Traditional liberal notions of liberty are open to critique on a number of grounds. For example, they ultimately conceive of group membership and identity as a consumer choice: individuals are or ought to be free to choose and change memberships and identities as they please. Arguably, traditional liberalism overestimates the extent to which individuals can exercise this kind of unfettered choice when it comes to ethnocultural or national group memberships and identities. As noted earlier, individuals do not exist independently from their cultural background. Instead, culture structures the way individuals perceive reality, and it defines the options at their disposal to a considerable degree. More fundamentally, cultural liberals such as Kymlicka have suggested that an individual's ability to exercise meaningful choice ultimately depends on his or her participation in a specific culture: individual choices and behaviours acquire meaning only in the context of specific cultures, and individual liberty can therefore not be understood in isolation from cultural identity.[357] In addition, many cultural practices become "naturalized" and thus do not present themselves as a matter of choice to individuals.

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[356] Quoted in Sherene Razack, "Collective Rights and Women: 'The Cold Game of Equality Staring'," in Judith Baker, ed., *Group Rights* (Toronto: University of Toronto Press, 1994), 66-78, at 68-69.

The notion of individual equality that underpins neutrality approaches is likewise problematical. The focus on equality of treatment, on equality-as-sameness, occludes the extent to which power is inherent in the construction of social categories and their interrelations. Social groups are situated unequally in terms of the social, political, and economic resources at their disposal and the restraints they experience. Much of the recent citizenship literature has discussed the extent to which the membership of individuals in specific social groups or an individual's social identities - including ethnocultural and national ones - enable or limit their access to societal goods.[358] An individual's group memberships and social identities have significant implications for his or her actual ability to avail him- or herself of rights and resources that he or she may formally be entitled to by virtue of citizenship status. The traditional liberal conception of equality as equal treatment is ill-equipped to address these issues. The kind of formal equality espoused by the neutrality approach is, therefore, insufficient to prevent the (re-)production of substantive inequalities between groups and individuals in a context of formal equality.

The third core concept of neutrality approaches - that of state neutrality - is likewise subject to contestation.[359] Critics have charged that "no state can be strictly neutral because the institutions of every state must have some commitments that violate the requirement of neutrality by having some historical character."[360] Traditional liberals such as Kukathas have responded to this charge by claiming that the historical, culture-bound character of state institutions does not, in fact, detract from the state's ability to maintain neutrality, since the historical and cultural specificity of state institutions does not imply that the state is "pursuing or promoting any particular ends."[361] This defense of the possibility of state neutrality is open to critique on at least two grounds: firstly, it fails to take seriously the fact that the historical specificity of state institutions necessarily privileges certain values, ideas and traditions concerning the organization of political processes. It consequently leaves no room for examining the connections between the historical character of state institutions and the dominance or marginalization of specific ethnocultural, national, linguistic or other social groups. Secondly, Kukathas's defense of state neutrality fails to consider to what extent policies enacted by the state can indeed be neutral (despite the fact that the institutions the state itself consists of are culture-bound). The state is not always in a position where policies it implements are neutral in the sense that they do not have a differential impact on ethnocultural, national, racial or other social groups, whatever the intent behind those policies. Even if specific policies are themselves framed in the language of neutrality, their implementation may produce unequal results given that social groups are often located differently regarding their social, economic, cultural and political power and resources.

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[357] See, *inter alia*, Will Kymlicka, *Liberalism, Community and Culture* (Oxford: Clarendon, 1989); Kymlicka, *Multicultural Citizenship*.

[358] See, *inter alia*, Iris Marion Young, "Polity and group difference: A critique of the ideal of universal citizenship," *Ethics* 99:2 (1989), 250-174; and Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990).

[359] For a detailed critique of state neutrality, see, *inter alia*, Tim Nieguth, "Privilege or Recognition? The Myth of State Neutrality," *Critical Review of*

Perhaps more fundamentally, and somewhat paradoxically, state neutrality is in itself not

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International Social and Political Philosophy 2:2 (1999), 112-131.

[360] Kukathas, "Liberalism and Multiculturalism," 697.

[361] Kukathas, "Liberalism and Multiculturalism," 697.

neutral. State neutrality represents a political choice to avoid direct state intervention in ethnocultural affairs and to relegate the latter to the private sphere. It is thus a decision by the state not to intervene in ethnocultural relations with a view to achieving or maintaining equality between groups. Instead, the positions different ethnocultural or national groups occupy within society, the character of their relationships with other groups, and ultimately their survival, depend on the resources those groups can muster within the private realm. Since resources are typically unevenly distributed among groups, non-intervention effectively translates into advantaging the dominant ethnocultural or national group(s).

Finally, neutrality approaches are problematical in a ***historical*** sense. They do not allow for the possibility that different groups and individuals may have been incorporated into or relate to the state in different fashions, and that they may therefore enjoy or lay claim to differential status. For example, a number of scholars have stressed the importance of the treaties concluded between the British Crown (and after Confederation, the Dominion) and many Aboriginal peoples for discussions about citizenship in Canada.[362] They argue that these nation-to-nation treaties provide the foundation for a relationship between Aboriginal peoples and the Canadian state that differs fundamentally from the relationship between the Canadian state and non-Aboriginal groups and individuals. Relatedly, the very notion of Canadian citizenship has been subjected to criticism as a project of the colonial settler state that does not reflect the contemporary aspirations, historical experiences or modes of governance of Aboriginal peoples. Thus, Patricia Monture-Angus has argued that "[c]itizenship as a defining concept of Canadian nationhood must be remembered as one shaped outside of First Nations' governance practices and cannot be assumed to have universal application and respect."[363]

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[362] See, *inter alia*, James (Sákéj) Youngblood Henderson, "Sui Generis and Treaty Citizenship," *Citizenship Studies* 6:4 (2002), 415-440.

Neutrality approaches are also problematical in a second historical sense. Western political philosophy has traditionally operated on the "more or less implicit assumption [...] that liberal-democratic states have been and are, to a large extent, 'ethnoculturally neutral'. For example, Michael Walzer argues that liberalism involves a 'sharp divorce of state and ethnicity' [...]."[364] As Kymlicka has pointed out, among others, this assumption does not hold up to scrutiny: "Virtually all liberal democracies have, at one point or another, attempted to diffuse a single societal culture, namely that of the dominant majority."[365]

A number of observations follow from the above comments: first, state policies based on an overarching neutrality approach to ethnic and cultural diversity will likely produce contradictory results, or they will produce results that do not reflect their stated objectives. In particular, neutrality approaches will, in actual practice, tend to (re)produce inequalities between ethnic and national groups. Second, neutrality approaches underline that containment itself is a contradictory concept. Neutrality approaches are similar to control approaches in the basic sense that they involve the containment of forms and expressions of ethnic and national diversity that are construed as unacceptable. However, the notions of containment that underpin control approaches involve the intentional unequal treatment of groups. In contrast, neutrality approaches are not based on an intention to inflict or maintain social injustice or unequal treatment. In fact, the motivation behind neutrality approaches usually is the opposite. Relatedly, while control approaches are more or less imposed unilaterally on minority groups by the state, minority groups may have considerable input into (and in fact, be a driving force behind) the implementation of neutrality approaches. Consequently, the form of containment characteristic of neutrality approaches - and in the context of this thesis, specifically the role played by territoriality as part of a containment strategy - differs substantially from forms of containment that characterize control approaches.

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[363] Patricia Monture-Angus, "*Citizens Plus*: Sensitivities versus Solutions," in Centre for Research and Information on Canada, ed., *Bridging the Divide between Aboriginal Peoples and the Canadian State*, The CRIC-Papers 2 (Montreal: Centre for Research and Information on Canada, 2001), 8-14, at 10.

[364] Kymlicka, "Nation-building," 185.

[365] Kymlicka, "Nation-building," 185.

The remainder of this chapter will trace the significance of state territoriality - as a principle of organizing political authority and a strategy for containing diversity - for the conception and implementation of neutrality approaches. It will do so by examining three cases: firstly, it will explore Canada's conscription crisis during the First World War, with a view especially to the notions of citizenship that underpinned calls for conscription. The following section will examine the "White Paper" incident of 1969 and its implications for the citizenship status of Aboriginal peoples. The third section will explore Canada's shift from an explicity race-based immigration policy to one that purportedly uses neutral criteria for assessing whether individuals should be allowed to immigrate to Canada.

5.1 The WWI conscription crisis

Historical developments. In August 1914, the United Kingdom declared war on Germany; as part of the British Empire, Canada joined the First World War alongside the UK. Initially, Canadian forces deployed to Europe (the Canadian Expeditionary Force or CEF) were composed entirely of volunteers. However, by the end of 1915, recruitment was becoming increasingly difficult: volunteer levels were especially low in Quebec, the Maritimes, and rural Ontario. Many British Canadians singled out Quebec for criticism, pointing to the under-representation of French Canadians in the overseas forces: while 27 percent of Canada's population resided in Quebec at the time, only 14 percent of personnel serving in the CEF were drawn from that province. Historians speculate that most of those 14 percent were members of Quebec's English-speaking minority, rather than French Canadians.[366] By 1917, voluntary enlistment rates had fallen dramatically: in the spring of that year, roughly 4,000 volunteers signed up for the CEF each month, compared to 30,000 a year earlier.[367] Given the heavy casualties on the battlefields of Europe, this number fell well short of replacement levels.

Declining enlistment was due to a number of factors - mounting casualties at the front, employment needs of the domestic war industries, and the depletion of potential volunteers in English-speaking Canada. Canada's manpower shortage was further accentuated by Prime Minister Borden's decision to increase the number of troops deployed to Europe: the authorized strength of the Canadian Expeditionary Force rose from 150,000 at the beginning of the war to

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[366] J.L. Granatstein, *Canada's Army: Waging War and Keeping the Peace* (Toronto: University of Toronto Press, 2002), 74-75.

[367] For this and the following see Granatstein, *Canada's Army*, 125; James W. St.G. Walker, "Race and Recruitment in World War I: Enlistment of Visible Minorities in the Canadian Expeditionary Force," *Canadian Historical Review* 70:1 (1989), 1-26, at 18; Bill Twatio, "The conscription crisis, Part II: bearing the brunt of it," *Esprit de Corps* 11:7 (2004) [accessed through CPI.Q, University of Alberta, 23 August 2005].

250,000 in October 1915, and to 500,000 in January 1916.[368] The government sought to address the military's manpower shortage at first by attempting to recruit 50,000 volunteers for a Canadian Defense Force, to be deployed on Canadian soil for home defense. This scheme was intended to free up an equal number of volunteers who were on home defense duty at the time for overseas duty with the CEF. Implemented in February 1917, this scheme soon proved to be a resounding failure, a fact that ultimately reinforced calls for conscription:

> Potential CDF recruits could [...] see that there was no need for 50,000 men to be retained in Canada. Most, no doubt, feared they would be converted to the CEF and dispatched overseas and, as a result, volunteers who might have been eager for service only in Canada stayed away from the CDF in droves. By April 25 fewer than two hundred had signed up. Conscriptionists in government, the military, the media, and the public viewed the CDF failure as proving that only compulsion could produce men now.[369]

Much of the Canadian press favoured conscription to alleviate Canada's persisting manpower shortage, as did groups such as the National Service League. In conjunction with mounting casualties and declining voluntary enlistments, this made conscription a highly salient issue.[370] However, the government resisted calls for conscription until early 1917. Thus, in 1916, Prime Minister Borden assured the House of Commons that there would be no compulsory military service.[371] In early 1917, however, the government reversed its position on conscription. On 17

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[368] Granatstein, *Canada's Army*, 72-73.

[369] Granatstein, *Canada's Army*, 126.

[370] See, *inter alia*, J.L. Granatstein and J.M. Hitsman, *Broken Promises: A History of Conscription in Canada* (Toronto: Oxford University Press, 1977), 60.

[371] Granatstein/ Hitsman, *Broken Promises*, 61.

May 1917, Borden met with Cabinet to inform his Ministers that he had decided to implement compulsory military service. Announcing his decision in the House of Commons the following day, Borden declared that conscription was necessary to safeguard Canada's national interests, claiming that "the battle for Canadian liberty and autonomy is being fought today on the plains of France and Belgium."[372]

By 1917, French Canadians - who had initially supported Canada's war entry - had become largely indifferent, and in some cases hostile, to the war effort. Quebec's lack of enthusiasm for the war effort and its low enlistment levels bred resentment against French Canada in English-speaking Canada. Military service, compulsory or otherwise, was thus an issue rife with British/ French tension. Borden was acutely aware that conscription had the potential to deeply divide Canadians. In order to prevent a widening rift between British and French Canadians, Borden met with Liberal leader Wilfrid Laurier on 25 May 1917, offering a coalition to the Liberals and the office of Prime Minister to Laurier himself.[373] Laurier, concerned that the introduction of compulsory military service would drive French Canadians into the arms of Bourassa's Nationalists, convinced that it would undermine Canadian unity, and certain that the effectiveness of conscription would be severely limited, refused the offer. Instead, he proposed to call a referendum on conscription - a suggestion that pro-conscriptionists considered unacceptable, both because it would have delayed the implementation of compulsory service, and because there was a risk that conscription would be defeated if submitted to a plebiscite. Having rejected Laurier's plea for a referendum, the House of Commons passed the Military Service Act (conscription legislation introduced by Borden) in July. The Act came into force in August 1917. The parliamentary vote on the conscription bill foreshadowed the developments of the coming months, as twenty-five Liberals voted with the government in favour of the bill, and all but five French-speaking MPs voted against it.[374]

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[372] Quoted in Walker, "Race and Recruitment," 18.

[373] For this and the following see, *inter alia*, Desmond Morton, *A Military History of Canada: From Champlain to Kosovo*, fourth edition (Toronto: McClelland and Stewart, 1999)., 154-155; Granatstein/ Hitsman, *Broken Promises*, 68-69; Twatio, "The conscription crisis, Part II"; Bill Twatio, "The conscription crisis, part III a Canadian tragedy," *Esprit de Corps* 11:8 (2004) [accessed through CPI.Q, University of Alberta, 23 August 2005].

The Military Service Act provoked resistance from several segments of Canadian society: most French Canadians opposed conscription, and on the day the Military Service Act was introduced in Parliament, riots broke out in Quebec. Conscription was also opposed by many farmers, who feared that compulsory service would adversely affect rural labour supply and would result in the closure of several thousand farms, as well as by organized labour.[375] In light of this resistance, many Conservatives were concerned that conscription would undermine their hold on power and result in a defeat in the 1917 general election.[376] It was those concerns, at least in part, that drove Borden to offer a coalition government to Laurier, and explained "his [continued] efforts to entice Liberals into the Cabinet over the next several months" after Laurier had declined the offer.[377] Much "to Borden's surprise, and to the Liberals', conscription would provide the lever to move popular support behind the government. With it Borden created a Union Cabinet and destroyed the unity of the Liberal Party [...]."[378] Conscription dominated the December 1917 election. Public opinion in English-speaking Canada was largely in favour of compulsory service, and Borden's Union government - formed shortly after the election announcement in October 1917 and composed of the Conservative party and parts of the Liberal party that supported conscription - triumphed at the polls, winning 153 seats to the Liberals' 82.

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[374] Granatstein/ Hitsman, *Broken Promises*, 69.

[375] See, *inter alia*, Bill Twatio, "The conscription crisis: the threat of the military service act and prohibition hang over a divided Canada," *Esprit de Corps* 11:6 (2004) [accessed through CPI.Q, University of Alberta, 23 August 2005]; Twatio, "The conscription crisis, part III."

[376] As Borden described the situation at the time: "Our Ministers afraid of a general election. Think we would be beaten by French, foreigners, slackers" (quoted in Granatstein/ Hitsman, *Broken Promises*, 67).

Both before and during the election campaign, the Borden government took a variety of steps to ensure electoral victory: first, it manipulated the franchise, denying the right to vote to a number of groups that were expected to favour the Liberal opposition, and extending it to groups that were expected to support the government.[379] Thus, the Wartime Elections Act denied the franchise to Canadians from enemy countries who had been naturalized after 1902, as well as to Mennonites, Hutterites, Doukhobors, and conscientious objectors. At the same time, the Wartime Elections Act enfranchised women with close male relatives on duty in the CEF. Similarly, the Military Voters Act enfranchised all personnel serving in the Canadian or British forces, regardless of their citizenship status. Under the Military Voters Act, service personnel were to vote not for particular candidates, but were to cast a generic ballot either for the Government or the Opposition. If soldiers could not specify the constituency where they had resided when enlisting, or any constituency where they had previously resided, their ballot could be freely assigned to any constituency.

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[377] Granatstein/ Hitsman, *Broken Promises*, 67-68, quote at 68.

[378] Granatstein/ Hitsman, *Broken Promises*, 60.

[379] For the following see, *inter alia*, Granatstein/ Hitsman, *Broken Promises*, 71-73; Robert Craig Brown, "Full Partnership in the Fortunes and in the Future of the Nation," *Nationalism and Ethnic Politics* 1:3 (1995), 9-25, at 19-20.

Second, the Union government exerted considerable pressure on military personnel to vote for the government.[380] Soldiers serving overseas were told that a Unionist victory was their only chance to return to Canada. This pressure proved particularly effective, as 92 percent of military voters cast a ballot in favour of the Union government - "enough under the peculiar terms of the Military Voters Act to swing 14 seats from the Liberals to the Unionists."[381] Third, the Union government attempted to defuse resistance to conscription by limiting its potential negative effects on some groups. In particular, farmers' opposition to conscription prompted the government to issue an Order-in-Council exempting farmers' sons from compulsory service.[382] Fourth, the Union government turned the election into a contest of will between English-speaking and French Canadians. Thus, the Unionist campaign purposely appealed to British Canadian racism and anti-French Canadian attitudes in an effort to foster a nativist, English-Canadian brand of nationalism.[383] This anti-French Canadian thrust was reinforced by the conscription exemptions the government granted during the election campaign. Finally, and on a related note, the government's campaign attempted to delegitimize the opposition - the remaining Laurier

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[380] See, *inter alia*, Granatstein, *Canada's Army*, 127; Twatio, "The conscription crisis, part III."

[381] Granatstein/ Hitsman, *Broken Promises*, 81.

[382] Granatstein/ Hitsman, *Broken Promises*, 75; Twatio, "The conscription crisis, part III." These exemptions were cancelled in April 1918; see Morton, *A Military History of Canada*, 157.

[383] Granatstein/ Hitsman, *Broken Promises*, 76-78.

Liberals as well as Bourassa's French Canadian Nationalists - by linking it to the enemy, in particular the German Emperor.[384] As Morton sums it up rather poignantly: "By election day, the Unionist campaign had become a crusade of English-speaking Canada against Bourassa and the German kaiser. Thanks to election promises, conscription had been reduced to a punishment for 'slackers' and French Canadians."[385]

Causes, Origins, Intentions. The conscription crisis effectively illustrates both the core principles of and the contradictions inherent in state policies based on the ethos of neutrality towards ethnic and national diversity. It illustrates the core principles of neutrality approaches to diversity in the sense that the rationale behind conscription was based on a uniform idea of citizenship, and in particular, on notions of equal citizenship obligations. These citizenship obligations notably included military service to Canada. British Canadian resentment against low French Canadian enlistment levels played a key role in calls for compulsory service. Many British Canadians perceived opposition to the war effort and low enlistment levels in French Canada as little more than a refusal on the part of French Canadians to do their fair share as Canadian citizens. As the future Prime Minister Mackenzie King wrote at the time, "it is perhaps not surprising that the rest of Canada sees in the Quebec attitude nothing but disloyalty, and is more determined than ever to make certain that Quebec shall not prevent the Dominion from doing its entire and splendid duty to the men at the front."[386] Many British Canadians perceived conscription as a means to force French Canada to live up to its obligations and ensure that British Canada would not have to shoulder an unfair burden. The *Saturday Night* magazine, for example, flatly stated that it was "certainly not the intention of English Canada [...] to stand idly by and see itself bled of men in order that the Quebec shirker may sidestep his responsibilities."[387]

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[384] Desmond Morton and J.L. Granatstein, *Marching to Armageddon: Canadians and the Great War 1914-1919* (Toronto: Lester and Orpen Dennys, 1989), 172.

[385] Morton, *A Military History of Canada*, 156.

[386] Quoted in Granatstein/ Hitsman, *Broken Promises*, 69-70.

While conscription was often portrayed as a means of coercing French Canadians in particular to meet their military citizenship duties, the same logic applied to any other citizens seen as derelict in this regard. In 1916, for example, the Winnipeg Free Press observed that such "slackers" had "been subjected for more than two years to moral suasion, and if in that time they have not been aroused to a sense of their obligations as citizens there is little hope that any pressure short of compulsion will send them either to the front or to the munitions factories."[388] When Borden announced his intention to implement conscription to the House of Commons, he likewise couched compulsory service in the language of universal citizenship obligations, observing that "[a]ll citizens are liable to military service for the defence of their country."[389] Conversely, individuals who did not enjoy full and equal citizenship status were not subject to conscription. Thus, an Order-in-Council issued on 17 January 1918 exempted Aboriginal peoples and Japanese Canadians from compulsory military service, due to their abridged citizenship status and, in the case of the former, their treaty status. Likewise, British subjects who were prohibited from voting in federal elections were exempted from conscription in March of the same year.[390]

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[387] Quoted in Morton/ Granatstein, *Marching to Armageddon*, 171-172.

[388] Quoted in Twatio, "The conscription crisis."

[389] Quoted in Granatstein/ Hitsman, *Broken Promises*, 64.

[390] Walker, "Race and Recruitment," 19.

Despite the emphasis on equal obligations in the conception of conscription, the tension between British and French Canadians over compulsory military service reveals some of the contradictions inherent in neutrality approaches to ethnic and national diversity, as does the settlement of the conscription issue by a majority fiat that did not account for or accommodate French Canadian concerns. Ultimately, the very premise of neutrality was undermined by the fact that citizenship-as-sameness operated in a context where British and French Canadians subscribed to widely diverging views of Canada and where power relations were weighted in favour of English-speaking Canada. In particular, conscription involved a contest between three distinct kinds of nationalism, all of which held very different views about the nature of Canada and its role in the world.

Concerning the first kind of nationalism, many British Canadians thought of Canada as an integral part of the British Empire owing allegiance and support to the United Kingdom as the imperial centre. In many ways, the central reference point for this brand of nationalism was Great Britain rather than Canada. Not surprisingly, the sense of connection to Great Britain was perhaps strongest among recent immigrants from the United Kingdom; this is clearly reflected in the high levels of voluntary enlistment in the CEF during the first years of WWI.[391] Thus, of 36,267 soldiers deployed to Europe by March 1915, 23,211 - or sixty-four percent - had been born in Britain, while only 10,880 had been born in Canada (including 1,245 French Canadians). Recruitment levels remained exceptionally high among immigrants from Great Britain throughout the war: a total of 619,636 soldiers served in the CEF from Canada's war entry to the conclusion of the war, 288,174 - forty-seven percent - were British-born. Meanwhile, according to the 1911 census, there were only 804,000 Canadians born in the United Kingdom, representing eleven percent of a total population of 7.2 million. As Granatstein observes:

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[391] The following numbers are drawn from Granatstein, *Canada's Army*, 57, 75.

> The British-born, the most recent arrivals in the dominion, felt the call to arms, the call of the blood, most strongly and responded most willingly. Native-born Canadians, a generation or more away from Europe, were initially slower to respond; and francophones, three hundred years in Canada, were slower still.[392]

In addition to emphasizing Canada's close external ties to Great Britain, this type of nationalism also perceived Canada itself as either predominantly or exclusively British in character. This view underpinned policies such as Ontario's Regulation 17, which severely restricted the use of French in Ontario schools and greatly contributed to French Canadian opposition to the war effort. Ultimately, "French Canadians considered Canada a bilingual country, while English Canadians in Ontario and the West saw it as an English country with one bilingual province - Quebec - not Ontario or Manitoba."[393] The issue of French language rights in Ontario and elsewhere tainted relations between British and French Canadians during WWI, and did little to convince French Canadians to participate in what they increasingly viewed as a British war.

The second type of nationalism at play in the conscription crisis provided the motivation for Borden's decision to implement compulsory military service. The line between this and the first type of nationalism was not always clear-cut: for one thing, Borden and other Unionists heavily appealed to anti-French Canadian prejudice during the 1917 election campaign, an appeal that was attractive to those who perceived Canada as primarily a British country. This second type of nationalism also overlapped with the first in the importance it attached to the British Empire. However, it conceived of Canada's role in the Empire as an equal partner to Great Britain rather than an extension or junior partner of the latter. The main reference point was not Canada's obligations to the mother country, but the status of Canada within the Empire and international affairs in general, as well as the national interests of Canada.

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[392] Granatstein, *Canada's Army*, 57.

[393] Francis et al., *Destinies*, 239.

This Canada-centred perspective was reflected, for example, in Borden's insistence during WWI that Canada and the other dominions be recognized as autonomous countries within the Empire, as well as in his repeated demands that Canada and the other dominions be included in London's military decision-making processes. These demands finally bore fruit in 1917, when the British government decided to include the dominions in an Imperial War Cabinet. Attending the Imperial War Cabinet in March of that year, Borden and the other dominion premiers were, for the first time, briefed in detail on the seriousness of the situation at the front: far from certain victory, the British and their allies were facing a very real prospect of defeat. This fact was one of the major reasons behind Borden's decision to implement conscription.[394] In this sense, conscription was the indirect result of Borden's insistence that Canada be recognized as a full partner in the military decision-making process, rather than being treated as subordinate to Great Britain.

Borden's change of heart in this matter - from rejecting to supporting conscription - can be attributed to two additional factors: first, Borden's visit to the front in the spring of 1917 convinced him that Canada had a duty to those soldiers already serving overseas to ensure that their service was not in vain. To his mind, a failure to provide adequate reinforcements would constitute a breach of faith with those soldiers. Finally, Borden felt "that Canada had to play a substantial role in the war in order to solidify its nationhood and its place in the Empire and the world."[395]

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[394] For the following see, *inter alia*, Francis et al., *Destinies*, 236; Granatstein/ Hitsman, *Broken Promises*, 61-62; Desmond Morton and J.L. Granatstein, *Marching to Armageddon*, 144.

Similar to the brand of Canadian nationalism Borden subscribed to, the third type of nationalism - espoused most clearly by Henri Bourassa and the French Canadian Nationalists - revolved around the idea of Canadian nationhood. It emphasized the existence of a Canadian nation and national identity distinct from Great Britain or France. Adherents to this brand of Canada-centred nationalism accordingly had little patience with appeals to "patriotic duty" that were rooted in Canada's ties and supposed obligations to Great Britain. Many British Canadians felt that French Canada's distance from and skepticism about the war effort betrayed a lack of patriotism. To the mind of Bourassa and other nationalists of this type, however, it was precisely British Canadian calls for loyalty to Great Britain that signalled a lack of true Canadian patriotism. According to Bourassa, British Canadian insistence that Canada owed allegiance, aid and support to Great Britain demonstrated that British Canadians had difficulties conceiving of Canada as a country in its own right, and that they therefore had difficulties discerning that a military involvement in WWI did not necessarily serve Canada's national interests.[396]

While French Canadian nationalists such as Bourassa had initially supported the war entry,[397] by the time Borden announced his plans for conscription they had "been converted from sympathy through neutrality to hostility to their fellow countrymen's war."[398] This fundamental shift in French Canadian attitudes - from support for the war effort in 1914 to opposition - was, in turn, the result of several causes.[399] Firstly, there was a growing perception in French Canada that the war was little more than an exercise in British imperialism, and a widespread feeling that the war was a European affair of little concern to Canada. Armand Lavergne, for example, a prominent Nationalist critic of WWI, dismissed the war as "a somewhat interesting adventure in a foreign country."[400] Laverne emphatically refused to "recognize the right of any government to impose compulsory service to take part in Imperial wars."[401] At the same time, there were - as mentioned above - significant domestic tensions between British and French Canadians over issues such as Regulation 17 in Ontario. The latter prompted French Canadian Nationalist leader Henri Bourassa to denounce "the Ontario government as more Prussian than the Prussians: French Canadians need not go to Europe to fight the enemy; it resided next door."[402]

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[395] Granatstein/ Hitsman, *Broken Promises*, 63.

[396] See, *inter alia*, Henri Bourassa, *La conscription* (Montreal: Le Devoir, 1917).

The conscription crisis and state territoriality. Canada's conscription crisis during WWI illustrates a number of implications state territoriality has had for state policies on ethnic and national diversity that ostensibly follow the principle of neutrality. First, the territory of Canada was conceived by many British Canadians as a homogeneous political space. This perception of homogeneity was echoed by the idea of uniform Canadian citizenship - in particular, the idea that all citizens residing on Canadian soil had precisely the same set of obligations to Canada and the Empire, regardless of their ethnic or national membership, their ties to Great Britain, or their duration of settlement in Canada. This universal idea of citizenship left little room for the recognition of national diversity and different views of Canadian nationhood, nor did it allow for a consideration of differential citizenship obligations. Furthermore, this uniform idea of citizenship obligations strongly articulated with a view of Canada that perceived it as explicitly British territory, rather than as a geographical space that was ethnically and nationally neutral.

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[397] See, *inter alia*, Desmond Morton, "French Canada and War, 1868-1917: The Military Background to the Conscription Crisis of 1917," in Michael D. Behiels, ed., *Quebec since 1800: selected readings* (Toronto: Irwin, 2002), 517-531, at 517.

[398] Morton, "French Canada and War," 528.

[399] See, *inter alia*, Francis et al., *Destinies*, 237-239; Granatstein, *Canada's Army*, 74.

[400] Quoted in Morton, "French Canada and War," 527.

[401] Quoted in Twatio, "The conscription crisis, part III."

[402] Francis et al., *Destinies*, 239.

Second, the crisis over compulsory service highlights the uneven impact of state territoriality on different ethnic and national groups. Due to their minority status in a common, territorially defined political space, French Canadians had less control over political decision-makers and the political decision-making process than English-speaking Canadians. This is amply demonstrated by the 1917 election result: the Unionist victory was owed to the predominantly English-speaking provinces, especially Ontario and the Western provinces, while French Canadians voted overwhelmingly for the Liberal opposition (who won close to 73 percent of the popular vote and 62 out of 65 seats in Quebec). The dominance of English-speaking Canadians within the territory of Canada enabled them to promote a particular vision of Canada's obligations to Great Britain and the Empire, as well as Canadian citizenship, that had little resonance with French Canadians. In effect, English-speaking Canadians were able to unilaterally impose their view of Canadian citizenship and Canada's role in the wider Empire on the French Canadian minority.

Third, and on a related note, state territoriality has a profound impact on the relative status of ethnic and national groups. The conscription crisis illustrates this in a number of ways. Thus, delineating political space on the basis of territory rendered French Canadians a minority group in a polity dominated by English-speaking Canadians. As noted above, many British Canadians consequently viewed Canada as a predominantly British space, where the French Canadian fact was limited to the territory of Quebec. Finally, state territoriality has a significant impact on the political process by orientating political behaviour and aspirations. This is evident, for example, in some of Borden's rationale for conscription, which ultimately served the purpose of strengthening the territorial state. It is also reflected in his disregard of French Canadian concerns around compulsory service - a disregard he and the Unionists could afford due to the dominance of English-speaking Canadians in Confederation, most of whom supported conscription.

5.2 The 1969 White Paper on Indian Policy

Historical developments. In 1876, Canada's federal government passed the first Indian Act. Applying uniformly to the country as a whole, the Indian Act replaced and integrated existing legislation on Aboriginal matters.[403] It was a comprehensive attempt to systematically address the relationship between Aboriginal peoples and Euro-Canadian society. The thrust of the Indian Act was one of assimilation: it sought to eliminate Aboriginal peoples as distinct peoples and proposed to integrate persons of Aboriginal heritage into the dominant society as individuals. To that end, the Indian Act contained a number of coercive measures; in the face of Aboriginal resistance to assimilation, those coercive measures were strengthened in subsequent revisions of the Indian Act. For example, the Indian Act was amended in 1884 to outlaw a number of cultural practices, such as the Potlatch. Following the 1880 amendments to the Indian Act, Aboriginal peoples needed Ottawa's permission for the use of band funds - a stipulation that severely undercut their ability to organize effectively across bands and reserves.[404] In 1920, the Indian Act was amended to make school attendance mandatory, and to enable the Department of Indian Affairs to enfranchise members of Aboriginal peoples against their will.[405]

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[403] Titley, *Narrow Vision*, 11.

By the 1930s, officials in the Department of Indian Affairs, as well as missionaries involved in the delivery of the Department's programmes, increasingly came to the conclusion that the policy of coercive assimilation had been a failure.[406] In addition, the overall population growth of Aboriginal peoples challenged the assumption that the latter would eventually vanish - an assumption that had been central to Canadian Aboriginal policy up to this point. The population growth of Aboriginal peoples also increased the fiscal strain on the federal government, which was responsible for the delivery of services to Aboriginal peoples. Furthermore, in the first half of the twentieth century, Aboriginal peoples began to organize more effectively and to engage more actively in political protests.[407] The combination of these factors ultimately necessitated a redefinition of Canada's policy on Aboriginal peoples.

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[404] Canada: Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, volume 1, chapter 7 (http://www.ainc-inac.gc.ca/ch/rcap/sg/cg7_e.pdf, accessed 4 December 2005).

[405] Miller, *Skyscrapers*, 260-261; Titley, *Narrow Vision*, 90.

[406] For this and the following see, *inter alia*, Miller, *Skyscrapers*, 311-314.

The perception that Canada's Aboriginal policy was in need of redirection was also strengthened by changing attitudes in Canadian society towards Aboriginal peoples, especially following WWII: "in the midst of a war against institutionalized racism and barbarity, it was impossible not to notice that the bases of Canadian Indian policy lay in assumptions about the moral and economic inferiority of particular racial groupings."[408] The perception that change was necessary resulted in a systematic reevaluation of the Indian Act by a special joint committee of the Senate and House of Commons. The committee conducted hearings from 1946 to 1948. Between the First and Second World War, Aboriginal peoples had not been consulted on the direction of Aboriginal policy.[409] The committee hearings in the late 1940s provided Aboriginal leaders with an opportunity to voice their concerns and demands, which largely aimed at regaining self-determination for Aboriginal peoples, furthering their economic development, and maintaining their distinctive status and identities. The 1948 recommendations of the committee ignored those demands: they proposed the removal of the coercive aspects of the Indian Act, but left its assimilationist thrust intact.[410]

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[407] In part, the political organization of Aboriginal peoples was spurred by "the transfer in 1930 of jurisdiction over crown lands and natural resources from Ottawa to the three prairie provinces. [...] the three provinces sought in myriad ways to evade their responsibility and, often in response to Euro-Canadians' political pressure, attempted to subject prairie Indians to the restrictions of their game and fishing laws" - attempts that met with considerable resistance from Aboriginal peoples (Miller, *Skyscrapers*, 323).

[408] Miller, *Skyscrapers*, 324.

[409] Alan C. Cairns, *Citizens Plus: Aboriginal Peoples and the Canadian State* (Vancouver/ Toronto: UBC Press, 2000), 63.

The 1951 revisions to the Indian Act were based on the same assimilationist principles as the 1948 recommendations. "The possibility that separate self-governing Indian communities might persist indefinitely was not seriously considered in non-Aboriginal society until the mid-1960s in the *Hawthorn Report*."[411] Following a multi-year inquiry into Aboriginal policy and the status of Aboriginal peoples, the Hawthorn Report rejected assimilation and the elimination of a special legal status for Aboriginal peoples. Instead, it suggested that Aboriginal peoples should be considered "citizens plus" - that is, members of Aboriginal peoples should have all the rights and privileges accruing to other Canadian citizens, while enjoying a number of additional rights deriving from Aboriginal title and treaty rights. The Report further argued that existing socio-economic inequalities between Aboriginal peoples and non-Aboriginal society could not be solved by eliminating the separate legal status of Aboriginal peoples. Rather, the solution to inequality, poverty and marginalization lay in programmes aimed at the social development of Aboriginal peoples and changes in public attitudes.[412]

During the 1960s, Canadian society became increasingly critical of Canada's Aboriginal policy. In part, this was due to the fact that information about the degree of poverty and alienation among Aboriginal peoples became more widespread. In addition, a number of international factors - such as the civil rights, anti-poverty and Red Power movements in the United States, as well as decolonization movements in the global South - influenced attitudes of Canadian society on Aboriginal matters and rendered it more sympathetic to Aboriginal concerns. Criticisms of Canada's policy on Aboriginal peoples focussed in particular on the Indian Act and the Department of Indian Affairs that was responsible for its administration, both of which were increasingly regarded as instruments of discrimination.[413] However, the "press and the urban white public rarely discerned the century-old ambiguity that Indians have felt about the Indian Act - their resentment of its constraints and yet their dependence on it for the special rights it provided, especially that of protecting their lands."[414]

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[410] See, *inter alia*, Miller, *Skyscrapers*, 326.

[411] Cairns, *Citizens Plus*, 54; italics in the original.

[412] See, *inter alia*, Miller, *Skyscrapers*, 328; Cairns, *Citizens Plus*, 52, 162; Dickason, *Canada's First Nations*, 363; Sally M. Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-70*, Studies in the Structure of Power: Decision-Making in Canada 9 (Toronto etc.: University of Toronto Press, 1981), 6.

The failure to recognize the ambiguous attitude of many Aboriginal peoples towards the Indian Act was reflected in the federal government's 1969 White Paper on Indian policy, which was designed to abolish "the existing framework of Amerindian administration, widely criticized for setting Amerindians apart and hindering their development."[415] When the federal government released the White Paper on 25 June 1969, it emphasized that it was based on extensive consultations with Aboriginal leaders. This claim had little basis in fact. The Trudeau government had indeed initiated a fundamental review of Aboriginal policy which lasted from 1968 to 1969, and during this time, Aboriginal groups were included in the review process.[416] However, as Sally Weaver observes, the review process took place in two separate fora: a public one, which included Aboriginal leaders and officials from the Department of Indian Affairs; and a closed circle of senior government representatives to which neither the public nor Aboriginal leaders had access. The principles underlying the White Paper, as well as its specific policy proposals, were formulated in this second, secretive forum without input from Aboriginal leaders.[417]

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[413] See, *inter alia*, Weaver, *Hidden Agenda*, 15-19.

[414] Weaver, *Hidden Agenda*, 19.

[415] Dickason, *Canada's First Nations*, 363.

[416] Miller, *Skyscrapers*, 329.

In consequence, the White Paper not only failed to reflect the demands Aboriginal leaders had voiced during the consultations, it was diametrically opposed to them. Aboriginal groups had "stressed that they remained committed to the twin goals of advancement and retention of their identity."[418] They did not seek assimilation or the elimination of separate legal status. In direct contrast, the White Paper proposed to terminate the separate legal status of Aboriginal peoples, claiming that separate status was responsible for the social and economic problems facing Aboriginal communities.[419] Miller provides a rather pointed summary of this argument; according to him, the White Paper

> argued that Canada's Indians were disadvantaged because they enjoyed a unique legal status. The problems of poverty, high rates of incarceration, political impotence, and economic marginality were not attributable to insensitive government policies or generations of racial prejudice. It was not because Indians lacked control of their own affairs or because they had been systematically dispossessed of their lands that they experienced severe economic and social problems. No. The explanation was that the law treated them differently, that

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[417] Weaver, *Hidden Agenda*, 53. According to Miller, the "brutal truth was that the series of consultations that had been carried out with Indian leaders never had any impact on the review of policy" (Miller, *Skyscrapers*, 334).

[418] Miller, *Skyscrapers*, 330.

[419] See, *inter alia*, Wotherspoon/ Satzewich, *First Nations*, 230; Cairns, *Citizens Plus*, 51.

they had a special status as Indians.[420]

This conviction informed the concrete policy proposals contained in the White Paper, all of which aimed at the termination of separate legal status for Aboriginal peoples.[421] Specifically, the White Paper proposed to amend the Canadian constitution with the aim of eliminating the distinct status and treatment of Aboriginal peoples, to repeal the Indian Act, and to abolish the Department of Indian Affairs. Furthermore, Aboriginal peoples would gain control over Aboriginal lands, and in future receive the same services as other Canadians, to be provided by the same agencies (which effectively would have transferred responsibility for providing services and programmes to Aboriginal communities to the provinces). In addition, the government would appoint a commissioner for the adjudication of Aboriginal land claims, and provide funds for Aboriginal economic development. Finally, the White Paper declared that "the anomaly of the treaties between groups within society and the government of that society will require that these treaties be reviewed to see how they can be equitably ended."[422] In effect, members of Aboriginal groups would relate to the provincial and federal governments as individual citizens, rather than as members of communities enjoying a distinct legal status.

The White Paper was strongly opposed by Aboriginal peoples. Among Aboriginal leaders, few agreed with its philosophical precepts.[423] On 26 June 1969, the National Indian Brotherhood (NIB) issued a press release condemning the White Paper. The NIB felt that the White Paper "had been developed in bad faith," and took exception to its rejection of Aboriginal rights.[424] These objections foreshadowed the nature of critiques the White Paper experienced in the coming months. In one particularly influential response (the so-called Red Paper), the association of Alberta chiefs vehemently attacked the government's claim that the White Paper was based on consultations with Aboriginal leaders.[425] The Alberta chiefs further challenged the view that Aboriginal peoples were citizens like any other, arguing that they constituted a distinct group that should be accorded differential rights. Aboriginal peoples were, as the Hawthorn Report had recommended, to be regarded as "citizens plus."[426]

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[420] Miller, *Skyscrapers*, 331-332.

[421] For the following see, *inter alia*, Miller, *Skyscrapers*, 332; Wotherspoon/ Satzewich, *First Nations*, 230; Dickason, *Canada's First Nations*, 363.

[422] Quoted in Wotherspoon/ Satzewich, *First Nations*, 228.

The unequivocal rejection of the White Paper by most Aboriginal leaders was echoed by the Canadian press. At first, press coverage of the White Paper had largely been restricted to relating its content and reporting initial reactions, but it rapidly shifted towards criticism as "the wording and generalities of the White Paper became more fully digested by Indian leaders and the public alike [...]."[427] Criticism in the press focussed chiefly on the federal government's failure to include Aboriginal leaders in drafting the White Paper, questions about the status, future and potential loss of Aboriginal lands under the White Paper-framework, and uncertainties about the treatment that Aboriginal peoples could expect from the provinces once they would fall under provincial jurisdiction.[428]

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[423] Dickason briefly discusses the position of some Aboriginal leaders who sympathized with the White Paper's objectives; see Dickason, *Canada's First Nations*, 365. Cairns points out that about one in five Aboriginal leaders at the time supported the goal of Aboriginal integration into Canadian society; see Cairns, *Citizens Plus*, 59.

[424] Weaver, *Hidden Agenda*, 173.

[425] Cairns, *Citizens Plus*, 67.

[426] See, *inter alia*, Miller, *Skyscrapers*, 336; Wotherspoon/ Satzewich, *First Nations*, 230-231.

[427] Weaver, *Hidden Agenda*, 176.

In response to criticism from Aboriginal leaders and the wider public, the federal government gradually abandoned the White Paper, choosing at first to characterize it as a mere discussion proposal. In the spring of 1970, Prime Minister Trudeau acknowledged widespread resistance to the White Paper, and conceded that it would not be implemented against the wishes of the public: "If the White people and the Indian people in Canada don't want the proposed policy, we're not going to force it down their throats."[429] Finally, the government formally withdrew the White Paper on 17 March 1971.[430]

The White Paper and its defeat had a number of lasting consequences for Canadian Aboriginal policy. First, it further accelerated the politicization of Aboriginal peoples. The 1968-69 policy review process, the White Paper itself, and the campaign against the White Paper provided an opportunity, highlighted the necessity, and demonstrated the political impact of an effective Canada-wide organization of Aboriginal peoples. In this regard, the legacy of the White Paper is perhaps most evident in the dramatic increase in the number of Aboriginal political organizations during the 1970s.[431] Second, and relatedly, the White Paper significantly strengthened Aboriginal nationalism.[432] Third, the defeat of the White Paper "put an official end to what had been the basic policy of the Canadian state from its inception, the ending of difference and the goal of assimilation. From the early 1970s [...], some recognition of diversity, of particularity, would be on the Aboriginal policy agenda."[433]

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[428] Weaver, *Hidden Agenda*, 176.

[429] Quoted in Miller, *Skyscrapers*, 337.

[430] Dickason, *Canada's First Nations*, 365.

Causes, Origins, Intentions. The development and defeat of the 1969 White Paper on Indian Policy highlights some of the potential contradictions of neutrality policies. In particular, it points to some of the problems that may arise when neutrality policies are introduced in a context that is marked by significant power imbalances between ethnic and national groups, and characterized by a differential incorporation of ethnic and national groups into the overarching polity. Specifically, the White Paper ignored the extent to which the relationship between Aboriginal peoples and the Canadian state, due to historical treaties and Aboriginal rights, differed qualitatively from the relationship between non-Aboriginal individuals and the state. The policies it proposed aimed at the elimination of differential status between Aboriginal peoples and non-Aboriginals, and thus ultimately continued in the assimilationist vein of previous government policies towards Aboriginal peoples.[434] It continued in that same vein not only in content, but also in form, since the White Paper was developed without appreciable input from representatives of Aboriginal peoples.

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[431] See Wotherspoon/ Satzewich, *First Nations*, 229, for a historical overview of the number of Aboriginal organizations founded at various points during the last few centuries, and especially during the twentieth century.

[432] See, *inter alia*, Weaver, *Hidden Agenda*, 5, 171.

[433] Cairns, *Citizens Plus*, 51.

[434] As Alan Cairns put it, "the 1969 proposals fitted very comfortably into the basic policy toward Indians of the previous century. The assimilation paradigm was the common currency of policy makers and non-Aboriginal commentators up until the White

At the same time, the socio-political context within which the White Paper was embedded differed substantially from earlier historical periods. This is perhaps most clearly illustrated by the fact that the White Paper encountered massive resistance both from Aboriginal groups and from the wider public, and by the fact that the government was in the end forced to withdraw its proposals. In other words, the government was no longer in a position to unilaterally impose policies on Aboriginal peoples that ran counter to Aboriginal concerns and demands. The White Paper also differed from earlier Canadian Aboriginal policies in terms of its rationale - a rationale that was no longer based on an ideology of European superiority and the assumption that the outright extinction of Aboriginal peoples, cultures, and identities would be desirable. Rather, the authors of the White Paper sought to construct the public sphere in terms that guaranteed equality to all and a respect for individual rights.[435]

This emphasis on individual liberty and equality was owed in no small measure to the fact that the small circle of government officials who drafted the White Paper geared their proposals to the personal philosophy of Prime Minister Trudeau - a philosophy that was very much indebted to liberal individualism and profoundly critical of group rights.[436] Trudeau "perceived the body politic as composed of individuals who related to their governments as atoms or isolated entities

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Paper's appearance" (Cairns, *Citizens Plus*, 51).

[435] See, *inter alia*, Weaver, *Hidden Agenda*, 168.

[436] See, *inter alia*, Miller, *Skyscrapers*, 334.

rather than as members of ethnic, racial, class, or regional collectivities."[437] In consequence, Trudeau opposed the formal recognition of groups in the political process and the entrenchment of differential group rights. This commitment to individualism informed both the thrust and the specific proposals of the White Paper: eliminating separate treatment of Aboriginal peoples, repealing the Indian Act, ending treaties with Aboriginal peoples, and abolishing the Department of Indian Affairs amounted to an attempt at ensuring that members of Aboriginal groups would be integrated into the Canadian polity as individuals, bearing the same rights and responsibilities as other Canadians, experiencing the same treatment, and relating to the federal and provincial governments in the same fashion.[438]

Notions of (individual) equality were prominently emphasized in the White Paper itself, which proclaimed that "[t]his Government believes in equality. It believes that all men and women have equal rights. It is determined that all shall be treated fairly and that no one shall be shut out of Canadian life, and especially that no one shall be shut out because of his race."[439] Once again, however, the White Paper's notion of equality was at odds with attempts at accommodating ethnic and national groups and recognizing differential group rights. In fact, it conceived such attempts as detrimental to equality. This view is reflected in the White Paper's assumption that separate treatment was at the root of the social, economic and political difficulties facing Aboriginal communities, and that the solution to those difficulties was to eliminate the special status of Aboriginal peoples. The concept of equality that underpinned the White Paper was thus one of formal equality,[440] allowing little room for recognizing the differential relationship between Aboriginal peoples and the Canadian state. In Trudeau's view, it was simply "inconceivable [...] that in a given society, one section of the society have a treaty with the other section of the society. We must all be equal under the laws and we must not sign treaties amongst ourselves."[441]

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[437] Miller, *Skyscrapers*, 329.

[438] See, *inter alia*, Dickason, *Canada's First Nations*, 364; Miller, *Skyscrapers*, 332.

[439] Quoted in Weaver, *Hidden Agenda*, 167.

The White Paper and state territoriality. State territoriality has had a number of consequences for neutrality policies on ethnic and national diversity. The development of the White Paper and its defeat exemplify a number of those consequences. First, these events highlight the manner in which state territoriality ties in with the construction of political space. Specifically, under the terms of the White Paper Canada was conceived as an ethnically and nationally neutral public space. Its territory was thus defined as homogeneous, in the sense that it provided no room for the public articulation and entrenchment of diversity. Within the territory of Canada, all citizens would, as citizens, enjoy identical rights and obligations, and would be incorporated into the state in the same fashion. Such legal distinctions as existed between different ethnic and national groups (prominently exemplified by the Indian Act) were to be eradicated; acceptable expressions of diversity would thus be contained and confined to the private sphere.

Second, the conflict over the White Paper underlines some of the effects of state territoriality on the production of ethnic and national groups. Provincial boundaries and the boundaries of Canada as a whole not only cut across the traditional territories of Aboriginal groups, they also cut across the boundaries of areas covered by the various treaties that the Crown had concluded with Aboriginal communities. This fact rendered Aboriginal groups small minorities in the different territorial jurisdictions. It also made it more difficult for Aboriginal communities to organize effectively. As Sally Weaver observes: "There is no doubt that the lack of congruence between traditional tribal boundaries, treaty areas, and the modern provincial boundaries imposed considerable strain on the organizing efforts of Indian leaders."[442]

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[440] See, *inter alia*, Weaver, *Hidden Agenda*, 4.

[441] Quoted in Miller, *Skyscrapers*, 329.

Third, the process leading up to the White Paper on Indian Policy underlines the uneven impact of state territoriality on ethnic and national groups. Locked into a shared, territorially defined political space with a dominant non-Aboriginal society, and subject to the policies of the settler state, Aboriginal groups had little access to political decision-makers. In consequence, the White Paper's attempt at recasting state-Aboriginal relations reflected preoccupations prevalent in non-Aboriginal Canadian society at the time, but took no heed of the concerns of Aboriginal communities. Instead, the Canadian state attempted (and failed) to impose its vision of a singular, undifferentiated political space on its entire territory, and it did so in a manner that reaffirmed power imbalances between Aboriginal groups and the settler state.

Finally, state territoriality has a marked impact on the political process by orientating political behaviour, aspirations and identities. The White Paper illustrates this in a number of ways, concerning, for example, the Canadian state's efforts to "homogenize" Canadian territory, contain threats to the state's territorial integrity, and emphasize a common, territorial citizen identity. Thus, the White Paper can be read, among other things, as an effort by the Canadian state to impose a uniform status on the entirety of its territory and the population residing within it. The "anomaly" represented by Crown treaties with Aboriginal peoples, and the exceptional status of Aboriginal reserves, was to be ended. Furthermore, the Trudeau government's refusal to countenance separate status for Aboriginal peoples stemmed in part from its opposition to Québécois nationalism. Trudeau's "obsession with defeating the claims of French-Canadian nationalists for special status for Quebec made him anxious to avoid creating any precedents that recognized racial or ethnic groups in legislative or constitutional ways."[443] Apart from its philosophical basis in notions of individual liberty and equality, denying separate status to Aboriginal groups thus served the strategic purpose of containing Québécois nationalism, which posed a potential threat to the territorial integrity of the Canadian state. Lastly, the White Paper can be seen as an attempt to override the particular, ethnic and national identities of different groups by imposing an overarching, territorially defined citizen identity on the entire population subject to the authority of the Canadian state.

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[442] Weaver, *Hidden Agenda*, 42.

5.3 Immigration policy and the 1967 points system

Historical developments. In the modern nation-state system, immigration policy is of central importance for constructing the symbolic and cultural boundaries of different nations, for state-driven nation-building projects, and for influencing the composition of a state's population. This is the case particularly in settler colonies such as Canada. Canadian immigration policy is located in a policy context characterized by the dominance of competing British and French Canadian settler societies. By virtue of their - compared to other immigrant groups - relatively early settlement in what was to become Canada, and their defining role in the establishment and development of European settler colonies in northern North America, these two "charter groups" were able to dictate the terms of Canada's nation-building project. This included the terms under which later arrivals would be admitted to Canada and integrated into Canadian society.[444]

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[443] Miller, *Skyscrapers*, 329.

Historically, Canadian immigration policy has been driven by the changing interplay of three fundamental factors:[445] first, considerations concerning the ethnic, cultural and racial boundaries of the Canadian settler society. For most of Canada's post-Confederation history, these boundaries were drawn in a fashion implicitly or explicitly designed to exclude non-whites from access to Canadian territory and full membership in Canadian society. They were also drawn to differentiate, within Europe, between more and less desirable immigrants. Much of Canadian immigration policy has thus been rooted in the desire of policy-makers to construct Canada as a Euro-Canadian society closely modelled after the United Kingdom.[446] Until the latter half of the twentieth century, this desire provided one of the central *leitmotifs* of Canadian immigration policy.[447] As Weinfeld and Wilkinson suggest,

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[444] As Peter Li observes, "the British and the French are charter groups of Canada in the sense that they were the first outside groups to settle in a previously sparsely populated territory, and, since their positions were well entrenched before other groups came, they were able to set the conditions of entry and rules of accommodation for subsequent immigrant groups"; Peter S. Li, *Destination Canada*, 16.

[445] See Lisa Marie Jakubowski, "'Managing' Canadian Immigration: Racism, Ethnic Selectivity, and the Law," in Elizabeth Comack, ed., *Locating Law: Race/Class/Gender Connections* (Halifax: Fernwood, 1999), 98-124, at 99.

[446] One of the clearest indicators of this ambition is the fact that the preamble of the British North America Act, 1867, recognized a desire on the part of the federating provinces "to be federally united into One Dominion [...] with a Constitution similar in Principle to that of the United Kingdom [...]"; United Kingdom: Parliament, "British North America Act, 1867."

> [h]istorically, there was a definite hierarchy of desirable immigrants. European immigrants from Great Britain and Northern Europe were given preference over those from Southern and Eastern Europe. [...] Scores of immigrants from 'backward', non-Protestant countries of Southeast Europe were considered a national danger and were described as 'dragging down our civilization to a lower level' [...].[448]

The emphasis on racial considerations began to wane in the 1960s, when explicit racism was gradually excised from Canadian immigration policy. This development culminated in the establishment of a universal selection system, the so-called points system, in 1967.

The second central factor in the development of Canadian immigration policy have been economic concerns.[449] In particular, changes in Canada's labour market needs shaped Canadian immigration policy in conjunction and sometimes competition with racial considerations. For example, a short-term demand for cheap labour during the construction of the Canadian Pacific Railway from 1880 to 1884 overrode strict racial considerations and led to the recruitment of Chinese workers. However, once construction was complete, racial preferences reasserted themselves in the form of increasingly restrictive anti-Chinese immigration laws.[450]

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[447] Jakubowski pointedly asserts that "Canada is plagued by a history [...] of racist immigration laws and policies" (Jakubowski, "Managing," 98).

[448] Morton Weinfeld and Lori A. Wilkinson, "Immigration, Diversity, and Minority Communities," in Peter S. Li, ed., *Race and Ethnic Relations in Canada*, second edition (Don Mills etc.: Oxford University Press, 1999), 55-87, at 57 (the comments in quotation marks are J.S. Woodsworth's).

[449] See, *inter alia*, Li, *Destination Canada*, 15; Jakubowksi, "Managing," 99; Yasmeen Abu-Laban and Christina Gabriel, *Selling Diversity: Immigration, Multiculturalism, Employment Equity, and Globalization* (Peterborough: Broadview, 2002), 38.

In addition to racial and economic concerns, Canadian immigration policy has been driven by Canada's insertion in the global political economy and the society of states. Canadian immigration policy never operated in a vacuum; rather, Canada often found itself in competition for immigrants with other states, in particular the United States. This competition affected the availability of potential immigrants and the selection criteria that Canada applied to determine who qualified as a "desirable" immigrant. Canada's aspirations on the global stage also played a role in shaping its immigration policy, especially once it engaged extensively in the United Nations and the British Commonwealth. Both of these "global" factors militated against racial barriers to immigration in the post-WWII era and played a significant role in the emergence of the 1967 points system.

The emergence of the points system in 1967 must be understood in the context of these three factors; in many ways, it represents a significant shift in the nature and balance of racial, economic and global concerns. The points system is a crucial signpost in a process that fundamentally altered Canadian immigration policy, changing it from a control approach that sought to prevent or at least limit the admission of non-white immigrants, to a neutrality approach that eliminated overt racial discrimination. The following section will briefly trace the development of the points system and locate it in the context of Canadian immigration history from 1867 onward.

The post-Confederation history of immigration to Canada can be divided into four broad phases.[451] The first phase of immigration to Canada lasted from Confederation in 1867 to roughly 1895. During this initial phase, Canada pursued a policy of unrestricted entry for immigrants from Europe and the United States. At the same time, it placed significant restrictions on the entry of prospective non-white migrants.[452] For example, Canada imposed a fifty dollar head tax on Chinese immigrants in 1885.[453] The rationale for this racialized immigration policy was provided by the notion, widespread among European settlers, that Canada was and should be developed as a white settler colony.[454] Consequently, immigration policy in the first phase was rooted in racist ideology, tempered by economic considerations.

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[450] Abu-Laban/ Gabriel, *Selling Diversity*, 38.

The second phase of Canadian immigration history began in 1896; it ended with Canada's entry into WWI in 1914. During this phase, Canadian immigration policy aimed to a large extent at encouraging the settlement of the Canadian West, and at opening the latter up to agricultural development. This phase was characterized by the influx of substantial numbers of European immigrants.[455] As Peter Li observes, "Canada experienced the highest level of immigration in history [during this second phase], a level unmatched by any year throughout the twentieth century."[456] Canada needed and was able to attract large numbers of immigrants due to a buoyant economy. In order to meet its labour market needs, Canada began to recruit immigrants from eastern and southern Europe in addition to the traditional source countries of Britain and western Europe.[457] At the same time, Canada enacted a range of exclusionary policies against prospective non-white immigrants. For example, the head tax imposed on Chinese immigrants in 1885 was increased to 500 dollars in 1903. In 1907, Canada concluded a Gentleman's Agreement with Japan, aimed at restricting Japanese immigration to Canada. Finally, in 1908 Canada stipulated that immigrants must reach Canada's shores by way of continuous journey, a rule that effectively excluded immigration from India.[458]

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[451] See Li, *Destination Canada*, 37. Any such periodization depends, of course, on the exact criteria chosen for the purpose; as a result, there are several competing periodizations of Canadian immigration history. See, for example, Alan B. Simmons, "Immigration Policy: Imagined Futures," in Shiva S. Halli and Leo Driedger, eds., *Immigrant Canada: Demographic, Economic, and Social Challenges* (Toronto: University of Toronto Press, 1999), 21-50, who differentiates among three phases of Canadian immigration policy.

[452] Li, *Destination Canada*, 18.

[453] The amount was subsequently increased. In 1923, Chinese were barred outright from immigrating to Canada by the Chinese Exclusion Act.

[454] Abu-Laban/ Gabriel, *Selling Diversity*, 37.

[455] Li, *Destination Canada*, 37.

During the third phase, which lasted from 1915 to 1945, immigration levels dropped sharply. This development resulted from a number of factors. Most notably, the Depression and the two World Wars combined to reduce Canada's attractiveness to potential immigrants, as well as its willingness and capacity to absorb large numbers of immigrants.[459] The return of soldiers from the front after WWI and the simultaneous decline of war industries left little room for absorbing new immigrant labour. Similarly, Canada experienced high unemployment rates during the Depression and WWII. In this situation, immigration was widely perceived not as an economic boon, but as an economic strain. In essence, the depression

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[456] Li, *Destination Canada*, 18.

[457] Li, *Destination Canada*, 18.

[458] See, *inter alia*, Li, *Destination Canada*, 19; Jakubowski, "Managing," 102-104.

[459] See, *inter alia*, Li, *Destination Canada*, 21; Abu-Laban/ Gabriel, *Selling Diversity*, 40; Weinfeld/ Wilkinson, "Immigration," 59.

> gave the government the justification it needed to further strengthen its already restrictive legislation. The new legislation reflected the intensified anti-immigrant sentiments among Canadians, who were generally of the opinion that immigrants were attempting to steal jobs from 'more deserving' citizens.[460]

While immigration levelled off in the third phase, Canada still granted entry to a number of European settlers. Simultaneously, it continued its policy of preventing non-white immigration.[461]

In the final phase of Canadian immigration history, beginning with the end of WWII, immigration levels began to rise again - initially due to the post-war expansion of the Canadian economy. Despite the fact that the economic boom generated a high demand for immigrant labour, Canadian immigration policy continued to discriminate against non-white immigrants until the 1960s, and to privilege immigration from Europe and the United States.[462] For the first two post-WWII decades, Canada's immigration policy was summed up by a historic statement that then Prime Minister Mackenzie King made in the House of Commons on 1 May 1947:

> There will, I am sure, be general agreement with the view that the people of Canada do not wish, as a result of mass immigration, to make a fundamental alteration in the character of our population. Large-scale immigration from the Orient would change the fundamental composition of the Canadian population. Any considerable oriental immigration would, moreover, be certain to give rise to social and economic problems of a character that might lead to serious difficulties in the field of international relations.[463]

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[460] Jakubowski, "Managing," 106.

[461] Li, *Destination Canada*, 19/21.

[462] Jakubowski, "Managing," 107; Li, *Destination Canada*, 22.

[463] Quoted in Li, *Destination Canada*, 23.

Clearly, King regarded immigration from non-white source countries as undesirable, both because it would alter the ethnic and racial composition of Canada, and because he felt that it would engender serious societal and political problems. This attitude continued to underpin Canadian immigration policy until the early 1960s; as late as 1956, the Canadian government issued an Order-in-Council that barred immigration from Asian countries.[464]

However, during the 1960s, Canadian immigration policy underwent significant changes that ultimately eradicated explicitly racial considerations from immigrant selection. In 1962, new immigration regulations eliminated the preferential treatment of prospective immigrants from Britain, France, and the United States. "For the first time, labour market skills became a major criterion for immigrant selection."[465] While the 1962 regulations ended the "White Canada" policy, they had relatively little effect on the ethnic and racial composition of the immigrant population. This was due, in part, to persisting restrictions on sponsored immigration from non-white countries. In part it was due to the persistence of exclusionary attitudes among immigration officials.[466] The last vestiges of explicit racism were formally removed from immigrant selection criteria with the introduction, in 1967, of the so-called points system. In future, immigrants were to be selected not on the basis of their race or ethnicity, but on the basis of their educational and professional skills as measured on a universal scale. This scale was also to take into account the demand for an applicant's occupation in the Canadian labour market.[467] The Immigration Act of 1976 formally entrenched the points system.

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[464] Li, *Destination Canada*, 23.

[465] Weinfeld/ Wilkinson, "Immigration," 59.

[466] Li, *Destination Canada*, 24; Weinfeld/ Wilkinson, "Immigration," 59; Yasmeen Abu-Laban, "Keeping 'em Out: Gender, Race, and Class Biases in Canadian Immigration Policy," in Veronica Strong-Boag et al., eds., *Painting the Maple: Essays on Race, Gender, and the Construction of Canada* (Vancouver: UBC Press, 1998), 69-82, at 74.

Causes, Origins, Intentions. The points system instantiates a neutrality approach to ethnic and national diversity in the sense that the criteria it uses to determine whether a prospective immigrant is to be admitted to Canada are applied universally. It thus leaves no room for considerations of race, ethnicity or nationality as a deciding factor - or at least, it offers no room for explicit considerations of these characteristics. While the points system has been revised several times over the last forty years, its underlying objective has remained unchanged: to ensure that immigration policy is applied on "a universal basis which can be interpreted to mean that everyone seeking admission to Canada is assessed under the same set of standards regardless of race, religion or country of origin."[468] The points system was intended to provide a non-discriminatory basis for immigrant selection, and thus represents a clear break with the rationale behind Canadian immigration policy from 1867 to the 1960s.

This rupture in the development of Canadian immigration policy can be attributed to two main factors. First, the policy change from control to neutrality approaches in immigration was driven by perceived labour market needs. During the first two post-WWII decades, Canada's economy continued to grow at a rapid pace. Between 1951 and 1971, economic growth generated a net gain of 3.3 million jobs.[469] To a significant degree, the resulting demand for labour was satisfied through immigration - initially drawn largely from traditional source countries. Thus, throughout the 1950s, European countries remained the primary source of immigration to Canada. However, an increasing proportion of European immigrants were unskilled.[470] The skill-oriented logic of the points-system aimed at attuning Canadian immigration policy more closely to the country's labour market needs, specifically the need for skilled labour. The points system was "premised on the need to correlate immigration planning and employment policy [...]."[471] In other words, the elimination of explicitly racial criteria of immigrant selection was due in part to the declining number of qualified (skilled) European immigrants: western European economies expanded for most of the 1950s and 1960s; western Europeans thus had little economic incentive to relocate to Canada. Moreover, western European countries began to compete for the supply of immigrant labour from southern Europe. In addition, the United States effectively competed with Canada for skilled labour throughout the 1950s and 1960s.[472]

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[467] See, *inter alia*, Abu-Laban/ Gabriel, *Selling Diversity*, 43-44.

[468] Green, quoted in Jakubowski, "Managing," 109.

[469] Li, *Destination Canada*, 21-22.

Second, the shift towards a neutrality approach to immigration was engendered by Canada's aspirations for middle power status in the context of anti-racist and decolonization movements around the globe. During the 1960s, "Canada was in the process of fashioning a positive image on the world stage as a helpful middle power."[473] This image was difficult to reconcile with the persistence of racial discrimination in Canadian immigration policy, particularly since racist ideologies had for a number of decades been actively challenged by anti-colonial struggles which ultimately led to the demise of European empires and the emergence of newly independent countries in the global South. In addition, anti-racist movements such as the US-Civil Rights Movement and the American Indian Movement challenged the tenets and practices of racism in the global North. This resistance to racism was driven in part by the experience of WWII, a war that had to a large extent been portrayed as a war against the racist ideology underpinning the fascist and proto-fascist regimes of Germany, Italy, and Japan. To a significant extent, the excision of explicit racism from Canadian immigration policy in the 1960s was motivated by these global pressures, and a recognition on the part of senior officials that the preservation of a blatantly racist immigration policy would weaken Canada's position in international institutions such as the United Nations.[474]

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[470] Li, *Destination Canada*, 23.

[471] Abu-Laban/ Gabriel, *Selling Diversity*, 44.

[472] Li, *Destination Canada*, 24-25; Simmons, "Immigrati[illegible] Policy," 44.

[473] Weinfeld/ Wilkinson, "Immigration," 59.

The introduction of the points system represents a significant break with the tradition of explicit racism in Canadian immigration policy, but it did not succeed in eliminating all racial components from that policy - thus highlighting, once again, the contradictory nature of neutrality approaches to diversity. While Canada's immigration policy itself is framed in non-discriminatory terms, the administration of immigration policy reproduces racial inequities. Even after the entrenchment of anti-racist principles in the 1976 Immigration Act, for instance, immigration offices continue to be distributed unequally across the regions of the globe, favouring access to immigration in traditional, predominantly white source countries. In the early 1990s, nineteen of Canada's sixty-four immigration missions were located in Europe, eleven in the United States, and one in Australia, but there were only fifteen in all of Asia, thirteen in Latin America, and five in Africa.[475] In addition, the points system gives considerable discretionary power to immigration officers, and therefore raises the possibility that admission decisions will be influenced by ethnic and racial biases.[476] Perhaps even more importantly, the points system has differential implications for ethnic and racial groups (and for different classes within those groups) in the sense that access to the skills it measures - formalized education and training - varies significantly across the globe.[477]

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[474] Jakubowski, "Managing," 108-109; Weinfeld/ Wilkinson, "Immigration," 59-60.

The points system and state territoriality. The history of Canadian immigration policy and the entrenchment of the points system in 1967 underline some of the implications of state territoriality for neutrality approaches to ethnic and national diversity. First, they illustrate some of the linkages between state territoriality and the conception of political space. Up to the early 1960s, Canadian immigration policy was rooted in the idea of White Canada, that is, a perception that Canada constituted a geographical space that was to be the exclusive domain of whites (in particular those of British origin). The points system reflects a profound shift from this idea of Canadian territory towards one that instead is bound by the notion that, within the boundaries of that territory, public space is to be constituted as non-ethnicized and non-racialized.

Second, the points system and its effects on immigration underline some of the implications of state territoriality for the production of specific ethnic and national groups, as well as the composition of society as a whole. Basing political authority on territory entails a significant measure of control, at least in principle, over who can enter or exit a state's territory.

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[475] Abu-Laban, "Keeping 'em Out," 77-78.

[476] Abu-Laban, "Keeping 'em Out," 78.

[477] Abu-Laban/ Gabriel, *Selling Diversity*, 48-49.

For most of Canadian history, this control was exercised in a manner designed to ensure that Canada's immigrant population would be overwhelmingly of European origin. Since the introduction of the points system and the elimination of explicit racial criteria for the admission of prospective immigrants, this has changed drastically. By way of illustration, until the late 1960s, the major source countries of immigration to Canada were either European or European settler colonies. By the mid-seventies, most of the top ten source countries were predominantly non-white. In 2000, only three of the top ten source countries were predominantly white (see Table 5.1). The influx of non-white immigrants has had a lasting impact on the composition of Canadian society, increasing the percentage of Canada's population of non-European origin. In 2001, visible minorities accounted for 13.4 percent of the Canadian population.[478] As Peter Li suggests, there "is no doubt that immigration since the late 1960s has contributed principally to this growth."[479]

Finally, the development of Canadian immigration policy and the entrenchment of the points system point to the role of state territoriality in shaping access to political decision-makers. By virtue of constituting the dominant groups within Canadian territory, British and French Canadians had superior access to and control over political decision-makers. This was reflected, among other things, in the historical predominance of racial selection criteria for the admission of immigrants. The two "charter groups" were thus able to entrench the idea of "white Canada" in state policy, an idea that bestowed privilege on them and marginalized non-Europeans.

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[478] Canada: Statistics Canada, "Visible minority population."

[479] Li, *Destination Canada*, 36. Beaujot similarly argues that "immigration clearly predominates in the relative growth of the visible minority population [...]"; Roderic P. Beaujot, "Immigration and Demographic Structures," in Shiva S. Halli and Leo Driedger, eds., *Immigrant Canada: Demographic, Economic, and Social Challenges* (Toronto: University of Toronto Press, 1999), 93-115, at 105.

5.4 Conclusion

State territoriality has had a number of significant implications for neutrality approaches to ethnic and national diversity. Discussing the conscription crisis during WWI, the 1969 White Paper on Indian Policy, and the entrenchment of the points system in Canadian immigration policy, the previous sections illustrated some of the consequences of state territoriality for the construction of political space, the production of ethnic and national groups, and the composition of Canadian society. State territoriality as an organizing principle of political authority articulated with notions of neutrality in a fashion that constituted Canada as an internally homogeneous space that offered no explicit recognition to ethnic and national groups. Policies based on notions of neutrality were intended to ensure that, within the boundaries of Canadian territory, all citizens would enjoy identical rights and possess identical obligations. At the same time, state territoriality had a marked impact on ethnic, national and racial demographics of Canadian society. This is evident in the history of racially exclusionary immigration policy, as well as in the consequences of a shift towards an immigration policy that, at least in principle, was non-discriminatory.

State territoriality also affected the opportunities available to different national groups, the symbolic and material resources at their disposal, and their ability to enforce particular visions of space. For example, the implementation of compulsory service during WWI reflected the preferences of English-speaking Canada and was diametrically opposed to the opinions held by most French Canadians. English-speaking Canadians were able to control the political decision-making process in this instance due to their dominant position in a shared, territorially defined political space.

Finally, state territoriality has had important implications for the orientation of political aspirations, identities and behaviour. For example, the territorial organization and sub-division of the Canadian polity had significant consequences for the organization of Aboriginal peoples. In addition, state territoriality influenced the political behaviour and aspirations of groups within Canadian society. Thus, the policy prescriptions of the 1969 White Paper stemmed in part from a desire on the part of policy-makers to ensure the territorial integrity of the Canadian state.

Table 5.1 Top ten source countries of immigration to Canada, selected years

	1966	1970	1980	1990	2000
1.	Britain	Britain	Vietnam	Hong Kong	China
2.	Italy	United States	Britain	Poland	India
3.	United States	Italy	United States	Lebanon	Pakistan
4.	Germany	Portugal	India	Philippines	Philippines
5.	Portugal	Greece	Hong Kong	India	South Korea
6.	France	Yugoslavia	Laos	Vietnam	Sri Lanka
7.	Greece	India	Philippines	Britain	United States
8.	China	China	China	China	Iran
9.	Netherlands	France	Portugal	Portugal	Yugoslavia
10.	Australia	Germany	Cambodia	United States	Britain

Source: Canada: Manpower and Immigration, "Immigration Statistics 1966" (Ottawa: Department of Manpower and Immigration, 1966; http://www.cic.gc.ca/english/pdf/pub/1966stats.pdf, accessed 6 April 2006), 5; Canada: Manpower and Immigration, "Immigration Statistics 1970" (Ottawa: Information Canada, 1971; http://www.cic.gc.ca/english/pdf/pub/1970stats.pdf, accessed 6 April 2006), 5; Canada: Employment and Immigration, "Immigration Statistics 1980" (Ottawa: Minister of Supply and Services, 1982; http://www.cic.gc.ca/english/pdf/pub/1980stats.pdf, accessed 6 April 2006), 10-15; Canada: Employment and Immigration, "Immigration Statistics 1990" (Ottawa: Minister of Supply and Services, 1991; http://www.cic.gc.ca/english/pdf/pub/1990stats.pdf, accessed 6 April 2006), 14; Canada: Citizenship and Immigration, "Facts and Figures 2000: Immigration Overview" (Ottawa: Minister of Public Works and Government Services, 2001; http://www.cic.gc.ca/english/pdf/pub/facts2000.pdf, accessed 6 April 2006), 8.

6.

RECOGNITION

In contrast to neutrality approaches, the third group of state policies on ethnic and national diversity offers recognition to ethnic and national identities in the public sphere. While "control" approaches can likewise be said to accommodate some forms of ethnic and national identity, the kind of accommodation offered by approaches in the "recognition" category differs fundamentally from those in the "control" category. Unlike control approaches, recognition approaches do not aim at privileging certain forms and expressions of ethnic or national identity while marginalizing or outright eliminating others. Instead, they recognize the validity of a range of diverse ethnic and national identities. They do so by a variety of means, ranging from an entrenchment of rights that, following Kymlicka, can be characterized as "polyethnic," to guaranteed representation and participation of particular ethnic and national groups in the state's political apparatus, and to mechanisms of self-government, such as local self-government, regional autonomy, or federalism.

The first two of these means - polyethnic rights and guaranteed representation - follow a logic of integration; that is, they seek to accommodate different ethnic and national groups within state institutions exercising authority over the population as a whole. Self-government approaches, in contrast, follow a logic of segmentation: they seek to accommodate ethnic and national groups in the political process by granting them a measure of autonomy in governing what are regarded as their internal affairs. While polyethnic rights, guaranteed representation and self-government aim at recognizing ethnic and national identities in the public sphere, they do so within constraints imposed by the logic of state territoriality. Moreover, there are limits to their capacity to accommodate ethnic and national identities. As with control and neutrality approaches, within recognition approaches state territoriality also functions as a mechanism that facilitates and contributes to the containment of certain forms and expressions of ethnic and national identities.

At the same time, the nature, purpose and direction of containment differ significantly between control, neutrality, and recognition approaches. Control approaches seek to contain non-dominant ethnic and national groups, either by relegating them to a subordinate position within society or by eradicating them. Neutrality approaches aim to confine all forms of ethnic and national identity - those of dominant as well as subordinate groups - to the private sphere, defining the public sphere as neutral. In contrast, recognition approaches accommodate ethnic and national group in the public realm, while imposing constraints on the claims of both dominant and on non-dominant groups.

Thus, while recognition approaches aim at accommodating a range of ethnic and national identities in the political process, the fact that they operate within the framework of state territoriality has a number of implications for their capacity to do so. The following sections will discuss some of the consequences of state territoriality for recognition approaches. It will do so by examining three cases: first, it will consider the Quebec Secession Reference and the passage of the Clarity Act, with particular attention to the limitations imposed on the right of secession. Second, it will explore the establishment of Canada's third territory, Nunavut. Third, it will discuss the introduction of Canada's multiculturalism policy by the Trudeau government.

6.1 The Clarity Act

Historical developments. On 30 October 1995, the province of Quebec held a referendum on independence from Canada. The electorate was asked to decide whether Quebec should secede and engage in negotiations for a new political partnership between an independent Quebec and Canada. Late in the referendum campaign, polls had shown a distinct possibility that the Yes-side (those in favour of secession) would win.[480] While this prediction was not borne out by the referendum result, the outcome was exceedingly close: the No-side won, but its margin of victory was less than one percent. 50.4 percent of voters indicated that they wished Quebec to remain part of Canada, while 49.6 percent were in favour of secession. The fact that neither the federalists nor the separatists enjoyed an unassailable lead before the referendum, combined with the fundamental importance of the matter at hand, resulted in an exceedingly high voter turnout of 93.5 percent.[481] The No-side's near-defeat prompted panicked reactions in the rest of Canada.[482] It became a defining moment of Jean Chrétien's Prime Ministership[483] and left a lasting imprint on federal government policies towards Quebec.

A few months before the referendum, support for secession had been stagnating below

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[480] Robert Young, "Jean Chrétien's Québec Legacy: Coasting Then Stickhandling Hard," *Review of Constitutional Studies* 9:1&2 (2004), 31-52, at 37.

[481] Young, "Jean Chrétien," 32.

[482] Andrée Lajoie, "The Clarity Act in Its Context," in Alain-G. Gagnon, ed., *Québec: State and Society*, third edition (Peterborough: Broadview, 2004), 151-164, at 152.

[483] Young, "Jean Chrétien," 32.

45 percent.[484] Even one month before the referendum, the No-side was leading in the polls.[485] What explains the increased support for secession and the federalist near-defeat in the 1995 referendum? One of the reasons was a change in the leadership structure of the Yes-camp: late in the campaign, Quebec's separatist Prime Minister, Jacques Parizeau, ceded sole leadership of the sovereigntist campaign to Lucien Bouchard, the charismatic and highly popular leader of the Bloc Québécois, a move that energized the Yes-camp.[486]

In addition, the campaign strategy chosen by the No-camp undermined its ability to effectively oppose secession. Throughout the campaign, the federal government flatly refused to countenance the possibility of secession, declining to indicate how it would respond to a yes-vote. In essence, the "political thinking of the federal government was one of denial and delay since a previous referendum vote in Quebec in 1980 had resulted in a decisive vote against secession."[487] The sovereigntists were able to capitalize on Ottawa's failure to clearly delineate a response to a Yes-victory. In particular, Ottawa's silence on the economic consequences of a Yes-vote allowed the sovereigntists to argue that secession would pose few economic risks. Their "promise of an economic partnership assuaged Quebecers' fears of the disruption that sovereignty might bring."[488]

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[484] Young, "Jean Chrétien," 33.

[485] Thomas J. Courchene, "The Changing Nature of Quebec-Canada Relations: From the 1980 Referendum to the Summit of the Canadas," Institute of Intergovernmental Relations Working Paper 2004(2) (Kingston, ON: Queen's University, Institute of Intergovernmental Relations, 2004), 5.

[486] Courchene, "Changing Nature," 5.

[487] Andrei Kreptul, "The Constitutional Right of Secession in Political Theory and History," *Journal of Libertarian Studies* 17:4 (2003), 39-100, at 78.

In the aftermath of the referendum, Canada's federal government pursued a two-pronged approach to addressing the threat of Québécois separatism - commonly labelled "Plan A" and "Plan B." Plan A measures aimed at meeting some of Quebec's demands for changes to the framework of Confederation, and sought to foster a greater sense of attachment to Canada among the Québécois. To this end, the federal Parliament passed a resolution that affirmed Quebec's status as a distinct society within Canada (thus acknowledging a traditional demand by Québécois nationalists), and enacted a bill that effectively allowed Quebec and other regions in Canada to borrow the federal veto on a range of constitutional amendments.[489] Moreover, Ottawa began to reduce its involvement in policy areas under provincial jurisdiction.[490]

Plan B measures aimed at spelling out both the process and the potential consequences of secession more clearly. For instance, in early 1996, the newly appointed federal Minister of Intergovernmental Affairs, Stéphane Dion, suggested that Quebec's present boundaries would not be sacrosanct if secession occurred.[491] This suggestion was diametrically opposed to the separatist position, which considered Quebec's territory indivisible.[492] Later in the same year, Minister of Justice Allan Rock submitted a reference to the Supreme Court of Canada, requesting its opinion on three issues: first, whether the Canadian constitution granted Quebec the right to unilaterally secede from Canada; second, whether international law granted Quebec such a right; and third, whether the Canadian constitution or international law would take precedence if they conflicted in the matter.[493]

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[488] Young, "Jean Chrétien," 34.

[489] Young, "Jean Chrétien," 38.

[490] Young, "Jean Chrétien," 39-40.

[491] Young, "Jean Chrétien," 40.

[492] Patrick J. Monahan, "Doing the Rules: An Assessment of the Federal *Clarity Act* in Light of the *Quebec Secession Reference*," C.D. Howe Institute Commentary 135 (Toronto: C.D. Howe Institute, 2000), 19.

The Supreme Court heard the reference case in February 1998, and handed down its decision (the so-called Quebec Secession Reference) on 20 August 1998. Since then, the Secession Reference has generated a substantial body of scholarly analysis.[494] It was also endorsed, at least in part, both by the Canadian government and by sovereigntists within Quebec - a remarkable accomplishment in and of itself. The reason the Court's decision proved acceptable both to proponents and opponents of secession was that it offered something to both camps, while managing not to side completely with either. In a nutshell, the Supreme Court found that Quebec had no right to secede unilaterally from Canada. However, Canada (that is, the federal government and the remaining provinces) had a constitutional obligation to negotiate secession in good faith if a clear majority of Québécois voted in favour of separation - provided the referendum question was clear.[495]

The Supreme Court refrained from specifying what would constitute a clear majority or a clear question, arguing that these issues were political in nature and thus not within its competence to decide. Instead, these issues were properly to be resolved by political actors in the concrete context of a potential future referendum.[496] However, the Court's insistence on clarity allows the conclusion that the majority required in order to trigger the obligation to negotiate would have to exceed the proverbial 50 percent plus one. Indeed, the Court "indicated that it is appropriate to require a 'substantial consensus' before undertaking a fundamental and permanent constitutional change, such as the establishment of an independent state."[497]

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[493] Lajoie, "Clarity Act," 152.

[494] See, *inter alia*, the contributions in David Schneiderman, ed., *The Quebec Decision: Perspectives in the Supreme Court Ruling on Secession* (Toronto: James Lorimer & Company, 1999).

[495] Monahan, "Doing the Rules," 8, 12-18; Lajoie, "Clarity Act," 154-155.

Since the Supreme Court had left it to political actors to determine what would constitute a clear question and majority, the federal government moved to set out criteria for determining both. In December 1999, it introduced "An Act to give effect to the requirements for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference" - the so-called Clarity Act. Parliament passed the Act on 15 March 2000.[498] The Clarity Act specifies the conditions that would trigger the federal government's obligation to negotiate the secession of a province, and establishes the process to be used in order to effect secession. It does so in four parts: the preamble to the Clarity Act acknowledges the possibility that provinces may secede from Canada. At the same time, it reiterates that there is no right to unilateral secession, and asserts that the House of Commons plays an important part in the secession process. In particular, it insists that

> the House of Commons, as the only political institution elected to represent all

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[496] Kreptul, "Constitutional Right," 78.

[497] Monahan, "Doing the Rules," 26.

[498] Canada: Parliament, "An Act to give effect to the requirements for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference" [Clarity Act] (http://www.laws.justice.gc.ca/en/C-31.8/35360.html, accessed 23 August 2005).

> Canadians, has an important role in identifying what constitutes a clear question and a clear majority sufficient for the Government of Canada to enter into negotiations in relation to the secession of a province from Canada.

Section 1 of the Clarity Act outlines the steps the House of Commons is to follow in assessing the clarity of a referendum question. Thus, Section 1(5) stipulates that the House must take into account the opinion of all parliamentary parties within the seceding province; any statements by other provinces or territories, the Senate, and representatives of Aboriginal peoples; and any other pertinent views. While most of Section 1 focusses on procedural questions, Section 1(4) rules out two types of referendum questions: questions that do not ask voters whether they wish their province to secede from Canada, but only ask them to indicate whether they wish their province to commence negotiations; and questions that do not focus exclusively on secession, but refer, for example, to a post-secession partnership with Canada.

Section 2 identifies the procedure to be used by the House of Commons for determining whether a clear majority of voters in a province favour secession. Specifically, Section 2(2) stipulates that the House must consider the size of the majority in favour of secession, voter turnout, and any other matters it deems relevant. In addition, Section 2(3) requires the House to take into account the opinions of a range of other political actors (identical to those outlined in Section 1(5)). Finally, Section 3 declares that the secession of a province would require a constitutional amendment, and therefore stipulates that all remaining governments - provincial and federal - must be involved in secession negotiations.

Unsurprisingly, the Clarity Act has invited severe criticism from political actors other than the federal government, most notably from Quebec's provincial government. In response to the Clarity Act, the Parti Québécois (PQ) government of Premier Lucien Bouchard in December 2000 passed Bill 99, "An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State."[499] Section 3 of Bill 99 states that the "Québec people, acting through its own political institutions, shall determine *alone* the mode of exercise of its right to choose the political regime and legal status of Québec" (emphasis added). The Bill further underlines that the proverbial 50 percent plus one constitute a sufficient winning condition in any referendum conducted under provincial legislation (Section 4). Bill 99 was passed without the support of Quebec's main opposition party, the Parti Libéral du Québec (PLQ). The PLQ refused to vote in favour of Bill 99, not because it supported the federal Clarity Act, but rather because its leadership felt there was a considerable risk that Bill 99 would be declared unconstitutional by the Courts. Notwithstanding his opposition to Bill 99, "Liberal leader Jean Charest agree[d] that the referendum rules should be set by the Québec National Assembly, and not the federal government."[500]

Causes, Origins, Intentions. Assessments of the motivation and intentionality behind the introduction and passage of the Clarity Act vary widely; given the subject matter, this is perhaps not especially surprising. Courchene, for example, has described the Clarity Act as a product of "combative" federalism.[501] In contrast, Monahan regards it as an entirely reasonable attempt at formalizing the secession criteria identified in the Supreme Court's Quebec Secession

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[499] Quebec: National Assembly, "An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State" [Bill 99] (http://www.canlii.org/qc/laws/sta/e-20.2/20040901/whole.html, accessed 19 April 2006).

[500] The Gazette, "Quebec sets separation rules," 12 December 2000, E7.

[501] Courchene, "Changing Nature," 7.

Reference.[502] Opinion is similarly divided over whether such an attempt was necessary to begin with. According to some observers, the question was "not whether the government of Canada must supplement the decision of the Supreme Court of Canada, but how and when it should take such supplementary action."[503] In this view, the judges' refusal to clarify the conditions that would trigger the federal government's obligation to negotiate made it necessary for the federal government to do so instead. In contrast, some analysts hold that the Secession Reference did not require the federal government to outline what would qualify as a clear question or majority in advance of an actual referendum.[504]

Notwithstanding these disagreements, the Clarity Act has received relatively little attention in the academic literature. Presumably, this is due to the fact that the Clarity Act itself is framed as a legislative extension of the principles expounded in the Supreme Court's Secession Reference, and is widely perceived as such. However, in a number of ways, the Clarity Act is an exceptionally intriguing document. First, the Clarity Act is in itself unusual. By virtue of its far-reaching consequences for the operation of Canada's political institutions, and for the nature and continued existence of the Canadian state itself, the Clarity Act arguably enjoys quasi-constitutional status. Canada consequently belongs to an exceedingly small group of countries that constitutionally recognize a right to secession. Referring to an earlier study by Monahan and

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[502] Monahan, "Doing the Rules," 7.

[503] Monahan, "Doing the Rules," 22.

[504] Lajoie, "Clarity Act," 157.

Bryant,[505] Kreptul points out that only seven out of 89 constitutions examined in this study provide for the secession of part of a state's territory.[506] Among the 82 constitutions that do not contain such provisions, 22 "expressly affirm the maintenance of the state's territorial integrity [...]."[507]

Second, the Clarity Act involves notions of recognition as well as elements of containment. While it frames the right to pursue secession in generic terms, acknowledging that it is held by all provinces, the Clarity Act originates out of ongoing struggles over the status of Quebec within Canada. In the words of Robert Young, the Clarity Act

> is a truly remarkable piece of legislation. It gives legal effect to what had been asserted, at times, by some ministers of the Crown - and contradicted by other politicians: Quebecers have the right to secede. In no other advanced industrial country has there been such a stunning recognition that a portion of the citizenry cannot be kept within the polity against its will.[508]

The Clarity Act thus offers far-reaching recognition to Québécois self-determination claims - and to self-determination claims raised by any other group that may be able to exercise effective control over a province. Moreover, the Clarity Act prevents the rest of Canada from arbitrarily refusing negotiations in the event that a province chooses to pursue secession. In this way, it prevents the majority population from imposing its will on a minority, and from undermining the measure of recognition granted to the minority group. In terms of the socio-political juncture that gave rise to the Clarity Act, the latter especially prevents English-speaking Canadians from trumping Québécois self-determination claims by dint of their dominant position within Canada as a whole.

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[505] Patrick J. Monahan and Michael C. Bryant, with Nancy C. Coté, "Coming to Terms with Plan B: Ten Principles Governing Secession," C.D. Howe Institute Commentary 83 (June 1996).

[506] Kreptul, "Constitutional Right," 71.

[507] Kreptul, "Constitutional Right," 71-72.

[508] Young, "Jean Chrétien," 44.

At the same time, the measure of recognition the Clarity Act offers to minority groups is limited. It is limited not only in the sense that secession is, in effect, an option only for those groups who can control a province, but also in the sense that it asserts that Canada as a whole - rather than just the province wishing to secede - has a significant role to play in shaping the secession process and determining its outcome. The Act does not allow for unilateral secession. Instead, it subjects the decision-making process in the seceding province to scrutiny by the rest of Canada. As Kreptul puts it,

> the Act does make clear *who* determines what a clear majority vote and a clear question should look like: the federal government itself, in the form of the House of Commons. In addition, the Clarity Act specifies the additional requirement that a seceding province must meet before entering the negotiation phase, namely, a clear will on the part of the seceding unit's citizens to secede. Once again, it is the federal government that decides whether the voters of a seceding province express a clear will to secede when they vote to secede.[509]

The third reason the Clarity Act is such an intriguing document is that it involves principles of secession that differ in some important respects from the remedial and permissive perspectives that dominate the academic literature on secession. To elaborate: within remedial accounts of secession,[510] the onus is on the seceding group to justify secession. Reference to the democratically established will of the group in question alone is insufficient. Rather, the groups must demonstrate that it harbours a serious and legitimate grievance against the existing state, and that this grievance cannot be addressed by other means. The presumption, then, is in favour of the existing state. Unless the seceding group can make a compelling case that secession is necessary to remedy an unjust situation, there is no justification for disrupting the territorial integrity of an existing state.

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[509] Kreptul, "Constitutional Right," 79.

In permissive accounts,[511] concerns with territorial integrity does not constrain secession. Nor do seceding groups have to present a credible argument that secession is necessary in order to prevent or repair any harm they are experiencing at the hands of the existing state. Instead, the chief criterion for assessing the legitimacy of secession is the will of the seceding group: if said group expresses a democratically formed will to form its own state, this by itself is sufficient to generate a right to independence.

Despite their differences, remedial and permissive accounts of secession share a number of similarities. First, both involve a notion of harm: in remedial accounts, the existence of harmful conditions is a necessary requirement for the justification of secession. In permissive accounts, secession would be considered illegitimate under several circumstances; one of these circumstances is the infliction of harm on the existing state or on groups that would become minorities in the seceding state.[512] A right to secession, then, has certain limits. This points to the second commonality of remedial and permissive accounts: neither views secession as an absolute right. Instead, where a right to secession exists, it is tempered by other considerations, such as the potential impact of secession on the existing state.

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[510] See, *inter alia*, Buchanan, *Secession*; Brilmayer, "Secession and Self-Determination."

[511] See, *inter alia*, Harry Beran, "A Liberal Theory of Secession," *Political Studies* 32:1 (1984), 21-31; Harry Beran, "A democratic theory of political self-determination for a new world order," in Percy B. Lehning, ed., *Theories of Secession* (London/New York: Routledge, 1998), 32-59; Daniel Philpott, "In Defense of Self-Determination," *Ethics* 105:2 (1995), 352-385.

The Clarity Act and the Supreme Court's Secession Reference likewise suggest that secession is not an absolute right. Both documents can be read as entailing an important distinction between the right to pursue secession, which is not constrained by other considerations, and a right to attain secession, which is. Quebec is free to pursue secession based on the democratic will of its citizens, but it has no absolute claim to success. The rest of Canada does have a duty to consider any request for secession by Quebec in good faith, but it does not have an absolute duty to comply with that request. Put differently, the secession of Quebec (or any other province) does not solely depend on its democratic expression of a will to secede, but is contingent on the consent of Ottawa and the remaining provinces.

Thus, the principles of secession underpinning the Clarity Act differ from remedial accounts of secession in the sense that they do not require secession to be grounded in demonstrable harm. They agree with permissive accounts to the extent that they recognize the democratic expression of a will to secede as sufficient grounds to initiate a secession process, but differ from those accounts by requiring the consent of the existing state as well.

The Clarity Act and state territoriality. The Clarity Act passed by Canada's federal Parliament in 2000 underlines several implications of state territoriality for recognition approaches. First, state territoriality was articulated with notions of ethnic and cultural diversity in a way that constituted Quebec as a geographically bounded, predominantly French Canadian political space. Since before Confederation, Quebec has often been portrayed as the "homeland" of Francophones in Canada, or North America as a whole. At the same time, the Clarity Act illustrates the extent to which the entire territory of Canada - including Quebec - is perceived as belonging not to any specific ethnic or national group, but to all Canadians.

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[512] Beran, "A Liberal Theory of Secession," 30-31.

Second, the Clarity Act highlights the unequal impact of state territoriality on different ethnic and national groups. State territoriality enables some ethnic and national groups - those who can effectively control a specific territory - to exercise a comprehensive range of self-determination claims, up to and including outright secession from Canada. In this sense, state territoriality - for example, in the form of federalism - can function as a mechanism that limits the power that majority groups, though dominant in the country as a whole, can exercise over minority groups. At the same time, state territoriality denies the ability to access a complete range of self-determination options to groups that cannot effectively control a territorially constituted political space. In essence, state territoriality contains the number of ethnic and national groups who could realistically avail themselves of a full suite of self-government rights (and by extension, remove themselves from comprehensive control by majority groups).

Finally, state territoriality is one factor shaping the behaviour and aspirations of various political actors. The Clarity Act illustrates this in a number of ways. For example, the Clarity Act recognizes that Quebec and the other provinces possess a right to pursue secession from Canada, thus conferring added legitimacy on secessionist projects. In this sense, the Clarity Act further represents a move away from the idea of territorial integrity. Somewhat paradoxically, however, the Clarity Act can also be read as strengthening the Canadian state's ability to defend its territorial integrity. As mentioned earlier, one of the main reasons for Quebec's near-secession in 1995 was the federal government's reluctance to acknowledge that a Yes-vote would lead to secession, and to clearly delineate the consequences of such a step. By acknowledging a provincial right to pursue secession, and by outlining the conditions for triggering negotiations between a seceding province and the rest of Canada, the Clarity Act will, if not eliminate, then greatly reduce this particular difficulty.

The Clarity Act further reinforces territorial integrity by embedding any province's pursuit of secession in a broader framework of controls and containment by other provinces and the federal government. None of the partners to negotiation have an absolute duty to agree to a province's request for secession. Any secession referendum is, in effect, rendered merely advisory. As Kreptul points out, the

> reason why most referenda on issues like secession are treated by constitutional democracies as consultative is easy to see: It is in every state's self-interest to maintain its territorial integrity. Indeed, under current international law, the preservation of a state's territorial integrity is the overarching value, subject only to strict exceptions.[513]

6.2 The creation of Nunavut

Historical developments. Until the middle of the twentieth century, the Inuit population of Canada, as well as the Canadian North more generally, received relatively little attention from

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[513] Kreptul, "Constitutional Right," 81.

Canadian policy-makers. Neither did they figure prominently in the political imagination of the Canadian public, in large part because the latter was (and remains) concentrated along the southern boundary of the country. This lack of concern is perhaps reflected most clearly in the fact that the Canadian government had never entered into treaties with Inuit peoples.[514] For a number of reasons, this situation began to change in the 1950s. The population in the South began to take greater notice of Inuit peoples in the wake of extensive coverage of starvation in Inuit communities.[515] Furthermore, the Canadian state felt compelled to acknowledge and act on its obligations to Aboriginal peoples, including Inuit communities, although (as noted in previous chapters) this compulsion was embedded in an assimilationist framework. In addition, the Canadian government developed a keen interest in exploiting the significant natural resources in the northern parts of the country. Finally, Canada began to pay greater attention to the North out of a "desire to solidify Canada's disputed claim to sovereignty over the islands of the Arctic archipelago."[516]

At the same time, political conditions in the North began to change as well. Historically, the federal government had administered the Northwest Territories, which accounted for most of Canada's northern land mass, as a quasi-colony. Residents in the Northwest Territories - many of which were Inuit - enjoyed an abridged citizenship status, as they were not allowed to vote in federal or territorial elections until the 1960s.[517] However, during the 1960s and 1970s, an Inuit political elite began to emerge. The members of this new elite actively resisted the treatment of Inuit as second-class citizens.[518]

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[514] Jack Hicks and Graham White, "Nunavut: Inuit self-determination through a land claim and public government?" In Jens Dahl, Jack Hicks and Peter Jull, eds., *Nunavut: Inuit regain control of their lands and their lives*, IWGIA Document 102 (Copenhagen: International Work Group for Indigenous Affairs, 2000), 30-115, at 46.

[515] Miller, *Skyscrapers*, 371.

[516] Hicks/ White, "Nunavut," 47.

In 1976, the Inuit Tapirisat of Canada - an organization representing Canadian Inuit - called for the establishment of a new, separate Inuit territory in the eastern part of the Northwest Territories as part of a general land claims settlement proposal.[519] Inuit Tapirisat renewed its call for a separate Inuit territory in the Eastern Arctic (to be called Nunavut) in several land claims proposals during the late 1970s.[520] These calls were rooted in aspirations for Inuit self-determination, the lack of treaties between Inuit peoples and the Canadian government, and the fact that Inuit represented the vast majority of the population in Canada's Eastern Arctic.[521]

The drive towards a separate Inuit territory gained momentum in 1980. In that year, the Legislative Assembly of the Northwest Territories (NWT) passed a resolution calling for a division of the NWT.[522] The issue was submitted to the territorial electorate. In a 1982 plebiscite,

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[517] Hicks/ White, "Nunavut," 49.

[518] Hicks/ White, "Nunavut," 52.

[519] William Hamley, "The Nunavut Settlement: A Critical Appraisal," *International Journal of Canadian Studies* 12 (1995), 221-234, at 223; André Légaré, "The Construction of Nunavut and its Impact on Collective Identity in the Canadian Eastern Arctic," *Review of Constitutional Studies* 7:1&2 (2002), 55-78, at 55-56.

[520] André Légaré, "An assessment of recent political development in Nunavut: the challenges and dilemmas of Inuit self-government," *Canadian Journal of Native Studies* 18:2 (1998), 271-299, at 274.

[521] Légaré, "Construction of Nunavut," 56.

[522] Légaré, "Assessment," 274.

56 percent of voters decided in favour of division; regions with a predominantly Inuit population strongly supported the measure.[523] Up to this point, the federal government had been reluctant to entertain the notion of a separate Inuit territory. After the plebiscite result, it accepted the idea, contingent on the resolution of Inuit land claims, boundary issues, and issues concerning the new territory's governmental structures.[524]

Negotiations between Inuit and government representatives continued throughout the 1980s, ultimately producing a land claims agreement-in-principle in early 1990. The Tungavik Federation of Nunavut (the organization representing Inuit in Nunavut) and the federal government signed a final land claims settlement in 1992. The settlement contained a clause that imposed an obligation on the federal government to pursue the creation of Nunavut, contingent on an agreement regarding the process and schedule to be followed in discharging that obligation, and on a plebiscite concerning Nunavut's boundaries.[525] The first condition was met with the conclusion of the Nunavut Political Accord in October 1992. The Accord stipulated that Nunavut would enjoy the same powers as the NWT.[526] Several months before the conclusion of this accord, the electorate of the Northwest Territories had approved the proposed boundary between Nunavut and the remaining Northwest Territories. However, while 54 percent of all voters supported the proposed boundary, it was rejected by a strong majority among the Dene and Métis peoples of the Northwest Territories. Many Dene and Métis felt "that the proposed boundary intruded into disputed hunting grounds, arguing that the boundary should be placed further east."[527]

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[523] Hamley, "Nunavut Settlement," 223.

[524] Légaré, "Assessment," 275.

[525] Hicks/ White, "Nunavut," 95.

[526] Légaré, "Assessment," 277.

Following the conclusion of the political accord, the Nunavut Land Claims Agreement was submitted to the Inuit of Nunavut for approval. In a November 1992 plebiscite, 69 percent of Nunavut Inuit accepted the agreement. The land claims settlement was signed by Inuit representatives, the federal government, and the NWT government in May 1993. In June of the same year, the federal Parliament passed two acts entrenching the terms of the agreement in legislation: the Nunavut Land Claims Agreement Act and the Nunavut Act; the latter determined the character and powers of the Nunavut government and scheduled the creation of Nunavut for 1 April 1999.[528]

The terms of the Nunavut Land Claims Agreement are far-reaching: they included not only the establishment of Nunavut and the creation of additional institutions of political governance with guaranteed Inuit representation, but also Inuit ownership of a significant amount of land, resource entitlements, and compensatory payments.[529] Most importantly, the Nunavut Inuit retained collective ownership of 350,000 square kilometres, roughly 18 percent of Nunavut's land mass; about 10 percent of those lands, or 35,250 square kilometres, include subsurface rights. According to the agreement, Nunavut Inuit can hunt wildlife throughout the entire territory of Nunavut for their own consumption, limited only by conservation criteria. The Inuit of Nunavut are further to receive a share of the royalties flowing from the exploitation of mineral, oil and gas deposits on Crown land in the territory. Under the terms of the agreement, the federal government was to transfer 1.148 billion dollars to the Nunavut Inuit over a period of fourteen years. The Inuit were also guaranteed a significant role in the governance of Nunavut: while Nunavut was to be constituted as a public government (that is, it was to represent and exercise authority over all of Nunavut's residents, rather than Inuit alone), demographics effectively ensured that the territorial government would be controlled by Inuit.[530] In addition, Nunavut Inuit gained guaranteed representation on management boards overseeing resource development.

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[527] Hamley, "Nunavut Settlement," 223.

[528] Hamley, "Nunavut Settlement," 225; Hicks/ White, "Nunavut," 56-57.

[529] For a comprehensive overview, see Jose Kusugak, "The tide has shifted: Nunavut works for us, and it offers a lesson to the broader global community," in Jens Dahl, Jack Hicks and Peter Jull, eds., *Nunavut: Inuit regain control of their lands and their lives*, IWGIA Document 102 (Copenhagen: International Work Group for Indigenous Affairs, 2000), 20-28, at 20-21; Hicks/ White, "Nunavut," 57-59; Hamley, "Nunavut Settlement," 224-225;

In exchange for these concessions, the Nunavut Inuit agreed to give up any Aboriginal title to lands and waters in Canadian territory. However, they did not cede their inherent right to self-government. As Hicks and White put it:

> In effect, the Inuit of Nunavut surrendered their rights to lands and resources at common law [...] for the measures contained in the Nunavut Land Claims Agreement. This exchange did not involve any surrender of Inuit rights to self-government in existence at the time the land claim was agreed to, or which may be defined by future constitutional amendments.[531]

Causes, Origins, Intentions. The stipulations contained in the Nunavut agreement are remarkable by any measure. They are especially noteworthy in light of the federal government's initial opposition to the creation of a separate Inuit territory. Ottawa's change of heart in this matter has been attributed to a number of factors. First, some of the federal officials involved in the negotiations with Nunavut Inuit have suggested that "Canada's commitment to the establishment of Nunavut is an expression of concrete desire on the part of Ottawa to share legislative and administrative powers with Aboriginal nations."[532] Given the extent of de facto self-government powers that the Nunavut agreement devolves to the Inuit of the central and eastern Arctic, this suggestion may have some merit. However, scholars such as Légaré have pointed out that it is somewhat superficial.[533] At best, federal "magnanimity" (to borrow Légaré's term) towards Aboriginal peoples is one part of the explanation for Ottawa's willingness to make significant concessions to the Nunavut Inuit.

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[530] In 1999, Nunavut had 27,000 inhabitants, roughly 82 percent of whom were Inuit; see Légaré, "Construction of Nunavut," 55.

[531] Hicks/ White, "Nunavut," 59.

Apart from "magnanimity," Ottawa's policy in the matter was driven both by situational factors, and by interests of state. Regarding the former, negotiating with the Nunavut Inuit provided the federal government with an opportunity to demonstrate that the policy it had devised for addressing Aboriginal land claims was indeed effective. Relatedly, the conclusion of a land claims settlement with the Nunavut Inuit and the creation of an Inuit territory benefited Canada's international reputation, a reputation that had suffered from incidents such as the armed stand-off with a group of Mohawks at Oka in 1990.[534]

Regarding Canadian interests of state, the creation of Nunavut needs to be understood in the context of ongoing conflicts over Arctic sovereignty. To elaborate, Canada claims the Northwest Passage as part of its sovereign waters. Other countries, however, including notably the United States, consider the passage international waters. On several occasions, US-ships have sailed through the Northwest passage without Canadian permission.[535] Part of the rationale for the creation of Nunavut, at least on the part of Canada's federal government, was a concern with ensuring Canadian sovereignty in the Arctic. As Légaré points out, this concern is reflected in the Nunavut Land Claims Agreement itself: Article 15 of that agreement states that "Canada's sovereignty over the waters of the arctic archipelago is supported by Inuit use and occupancy."[536]

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[532] Légaré, "Assessment," 292.

[533] Légaré, "Assessment," 292.

[534] Légaré, "Assessment," 292; Hicks/ White, "Nunavut," 55-56.

Nunavut and state territoriality. The creation of Nunavut underlines several effects of state territoriality on state policies that fall into the recognition category. First, the character of Nunavut as an Inuit territory results from a close articulation of state territoriality with the idea of a national homeland. This articulation constitutes Nunavut as a territorially bounded political space belonging to a particular national group. The character of Nunavut as an Inuit space is reflected in the name of the territory itself: Nunavut is an Inuktitut term that translates as "our land."[537] At the same time, the status of Nunavut as an Inuit homeland is constrained in two ways: the Nunavut agreement included the extinction of Aboriginal title and thus represents a step towards the homogenization of Canadian state territory. In addition, while Inuit currently constitute an overwhelming majority of Nunavut's population, they represent a relatively small community overall. In consequence, their control over Nunavut may be vulnerable to future population movements.[538]

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[535] Dickason, *Canada's First Nations*, 392.

[536] Quoted in Légaré, "Assessment," 293.

[537] Miller, *Skyscrapers*, 371.

Second, the creation of Nunavut illustrates some of the implications of state territoriality for the production of ethnic and national groups. For example, the boundaries of Nunavut do not coincide with the territories traditionally occupied by Inuit; instead, they further divide Inuit peoples. Nunavut does not include the Inuit in the western Arctic, Labrador or northern Quebec; Inuit in Greenland are excluded from Nunavut as well, by virtue of Canada's international boundary.[539] The establishment of Nunavut also resulted in the creation of "new" minorities within the territory: in 1999, roughly 82 percent of Nunavut's population were Inuit; the remaining 18 percent (a significant minority) were not. In addition, the creation of Nunavut will likely have a considerable impact on group identities in the new territory, as geopolitical boundaries are an important factor in the process of identity formation. Thus, while the construction of Inuit identity currently rests first and foremost on cultural markers, "one may predict that the Inuit of the Canadian Eastern Arctic will adhere more and more to a regional collective identity,"[540] that is, a group identity defined in territorial terms.

Third, the establishment of Nunavut points to the uneven impact of state territoriality on different ethnic and national groups. The creation of Nunavut involves a considerable degree of social, political and economic self-government for the Inuit of the central and eastern Arctic.

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[538] Hamley, "Nunavut Settlement," 230. Admittedly, this scenario does not seem likely under current socio-economic conditions; see Légaré, "Assessment," 290.

[539] Hamley, "Nunavut Settlement," 231; Hicks/ White, "Nunavut," 33-34.

[540] Légaré, "Construction of Nunavut," 61.

While Nunavut is unlikely to obtain provincial status,[541] it will nonetheless enjoy a great degree of autonomy and will ensure Aboriginal representation in future intergovernmental meetings and negotiations.[542] In consequence, it also imposes significant constraints on the capacity of Canadian society to exercise dominance over the Nunavut Inuit.

However, Nunavut represents a form of self-government that is available only to a limited number of ethnic and national groups - those who can effectively exercise control over a given territorial space. In the words of Jose Kusugak, the

> creation of a new territory with a government representing all its residents is a workable and attractive form of empowering the Inuit of Nunavut. This is entirely a function of our demographics [...]. Put simply, Nunavut works for us. Other aboriginal peoples will need to find other solutions.[543]

While state territoriality enabled the institutionalization of a considerable degree of self-government for Nunavut Inuit, it effectively puts a similar degree of self-government beyond the reach of other groups, such as Canada's Métis or urban Aboriginal population.[544]

Finally, the creation of Nunavut illustrates the impact of state territoriality on the behaviour and aspirations of socio-political actors in a number of ways. As mentioned above, one of the motors behind the conclusion of the Nunavut agreement was the Canadian government's desire to reinforce its claims and control over part of what it considers to be its territory.

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[541] Hamley, "Nunavut Settlement," 232.

[542] Légaré, "Assessment," 291.

[543] Kusugak, "The tide has shifted," 27.

[544] Cairns, *Citizens Plus*, 76, 110.

Somewhat paradoxically, Ottawa's initial reluctance to entertain the idea of a separate Inuit territory resulted at least in part from a pre-occupation with territorial integrity as well, specifically from its concern with the territorial threat posed by Québécois separatism:

> the federal government having to deal, at the end of the 1970s, with strong autonomist ideas originating from Quebec was not interested in creating a second political unit whose majority population would be distinct from the anglophone majority in Canada.[545]

Considerations of territorial integrity similarly shaped some of the obstacles faced and objectives pursued by Inuit representatives during the 1970s and 1980s. In particular, none of the existing Canadian provinces was likely to cede control over part of its territory to a new Inuit territory. Consequently, it is perhaps not surprising that Inuit representatives, in delineating the boundaries of Nunavut, refrained from extending demands for jurisdiction beyond the southern boundaries of the Northwest Territories.[546]

6.3 The emergence of official multiculturalism

Historical developments. The concept of multiculturalism is of relatively recent historical vintage; its emergence is often discussed in terms of the entrenchment of state policies on multiculturalism in Canada and Australia in the early 1970s. This section will follow that practice in the sense that it will trace the emergence of Canada's "official multiculturalism."[547] It should, however, be noted at the outset that there is some degree of confusion about the concept of multiculturalism. Indeed, multiculturalism as state policy is only one of the ways the concept can and has been employed, both in public discourse and within academia. As Peter Li points out, multiculturalism has been variously understood as a public policy, as an ideology, or as a simple description of demographic facts.[548]

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[545] Légaré, "Assessment," 274.

[546] Légaré, "Construction of Nunavut," 68.

As a state policy, Canadian multiculturalism can be traced to developments surrounding the Royal Commission on Bilingualism and Biculturalism (B&B Commission). For much of post-Confederation history, most Canadians perceived Canada either as British, or as a bilingual and bicultural country composed of a British Canadian and a French Canadian segment. The relationship between British and French Canadians was often characterized by tension: several decades before Confederation, Lord Durham famously described French and British Canadians in the Canadas (Lower and Upper Canada) as "two nations warring in the bosom of a single state."[549] The Manitoba Schools Question and the conscription crisis during WWI - discussed in Chapters 4 and 5, respectively - offer but two illustrations of the difficult nature of the relationship between British Canadians and French Canadians.

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[547] This section will not examine the transmutations of Canada's multiculturalism policy during the 1970s, 1980s and 1990s. See, however, Abu-Laban/ Gabriel, *Selling Diversity*; Kenneth McRoberts, *Misconceiving Canada: The Struggle for National Unity* (Don Mills: Oxford University Press, 1997); and Peter S. Li, "The Multiculturalism Debate," in Peter S. Li, ed., *Race and Ethnic Relations in Canada*, second edition (Don Mills etc.: Oxford University Press, 1999), 148-177, for a detailed discussion of changing policy directions and changes in public attitudes towards multiculturalism.

[548] Li, "Multiculturalism Debate," 148.

[549] Lord Durham, *Lord Durham's Report: An Abridgement of* Report on the Affairs of British North America *by Lord Durham*, ed. Gerald Craig (Toronto: McClelland and Stewart, 1963), 23.

That relationship was further complicated in the 1950s and 1960s by the emergence of an assertive French Canadian nationalism centred on Quebec, which federal governments perceived as a threat to Canadian unity. In response to this development, the federal government of Lester Pearson established the B&B Commission in 1963.[550] The Commission's mandate was to examine the status of bilingualism and biculturalism in Canada, and to recommend measures towards bringing about an equal partnership between British Canadians and French Canadians.[551] The B&B mandate was thus firmly rooted in a two nations concept of Canada, a concept that saw British-French dualism as a central and enduring characteristic of Canadian society and politics.

Given this mandate, it is perhaps not surprising that the B&B Commission considered Canada a composite of "two dominant cultures [...] embodied in distinct societies."[552] According to the Commission, biculturalism was thus a feature of the country, rather than its citizens. It was, in other words, Canada that was bicultural, not individual Canadians.[553] While the B&B Commission conceived British and French Canada as two separate societies, it did not view either of the two in ethnic terms. The Commissioners felt that both British and French Canada needed to accept individuals of non-British, non-French origin, and to permit those individuals to preserve their cultures. However, "the commission was clear that it was only as part of one society or the other that these individuals could participate in Canadian life; none of the various

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[550] Abu-Laban/ Gabriel, *Selling Diversity*, 107.

[551] McRoberts, *Misconceiving Canada*, 117.

[552] Cited in McRoberts, *Misconceiving Canada*, 118.

[553] McRoberts, *Misconceiving Canada*, 118.

'ethnic' groups had a sufficiently comprehensive set of organizations and institutions to qualify as societies."[554]

The dualist view of Canadian society that underpinned the B&B Commission's proceedings was clearly at odds with the vision of Canada espoused by Pierre Trudeau, who succeeded Pearson as Prime Minister in 1968. Trudeau's vision of Canadians society was founded on the twin concepts of individual liberty and individual equality; it left little room for the accommodation of collectivities in the public realm. In fact, Trudeau was convinced that recognizing the equality of (British and French) cultures in Canada would deepen the divide between English-speaking Canada and Quebec, and thus further the cause of Québécois separatism. Rather than promoting Canadian unity, emphasizing the equality of two cultures would serve to undermine it.[555] In this view, recognizing French Canada as a distinct society was a prelude to separation.

The B&B Commission's dualist view of Canadian society was also sharply criticized by some third force Canadians, who at that time accounted for roughly one third of Canada's population.[556] Many third force Canadians felt marginalized by a dualist view of Canadian society and were concerned that they would be reduced to second-class citizens.[557] Prompted by these criticisms, the B&B Commission prepared Book IV of its report, which addressed the contributions of non-British, non-French groups to Canadian society.[558]

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[554] McRoberts, *Misconceiving Canada*, 119.

[555] McRoberts, *Misconceiving Canada*, 120-121.

[556] Clifford Jansen, "Canadian Multiculturalism," in Carl E. James, ed., *Possibilities and Limitations: Multicultural Policies and Programs in Canada* (Halifax: Fernwood, 2005), 21-33, at 21.

[557] McRoberts, *Misconceiving Canada*, 122; Abu-Laban/ Gabriel, *Selling Diversity*, 107-108; Eva Mackey, *The House of Difference: Cultural Politics and National Identity in Canada* (Toronto etc.: University of Toronto Press, 2002), 64.

Announced by Trudeau in the House of Commons on 8 October 1971, Canada's multiculturalism policy emerged in response to the B&B Commission's recommendations;[559] in fact, it has been described as a "milder" version of the latter.[560] Official multiculturalism dovetailed with the Official Languages Act of 1969 to create a policy of "multiculturalism in a bilingual framework."[561] In other words, the Trudeau government viewed Canada as bilingual, but seized on multiculturalism to negate the B&B Commission's emphasis on biculturalism. It did so by separating language from culture, conceptually as well as policy-wise. Canada was to be bilingual but multicultural. In essence, "members of ethnic groups would be expected to conform to Canada's official languages in public institutions, but would be encouraged to pursue an ethnic culture and lifestyle of their choice in their private life."[562] Multiculturalism in a bilingual framework thus had contradictory implications: on one hand, it reflected the continued dominance of British and French Canadians by entrenching a hierarchy of rights between public bilingualism and private multiculturalism.[563] On the other hand, it challenged conceptions of

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[558] Abu-Laban/ Gabriel, *Selling Diversity*, 108.

[559] Mackey, *House of Difference*, 63.

[560] Li, "Multiculturalism Debate," 151.

[561] Abu-Laban/ Gabriel, *Selling Diversity*, 108.

[562] Li, "Multiculturalism Debate," 151.

[563] Li, "Multiculturalism Debate," 152; Abu-Laban/ Gabriel, *Selling Diversity*, 108.

Canadian identity that were ethnically, culturally and racially exclusionary, rooted in dualism, and founded on assimilationist expectations.[564]

Trudeau's 1971 announcement identified four central objectives for Canadian multiculturalism policy:

> First, resources permitting, the government will seek to assist all Canadian cultural groups that have demonstrated a desire and effort to continue to develop a capacity to grow and contribute to Canada, and a clear need for assistance, the small and weak groups no less than the strong and highly organized. Second, the government will assist members of all cultural groups to overcome cultural barriers to full participation in Canadian society. Third, the government will promote creative encounters and interchange among all Canadian cultural groups in the interest of national unity. Fourth, the government will continue to assist immigrants to acquire at least one of Canada's official languages in order to become full participants in Canadian society [...].[565]

This "mission statement" is remarkable in several ways. Notably, the first objective - government support for cultural retention - is difficult to reconcile with Trudeau's skepticism of cultural and group rights, or his commitment to individualism. Both of these are much more clearly reflected in the three remaining objectives, which emphasize individual rights, the promotion of cross-cultural exchange, and individual integration into Canadian society (including notably integration into a bilingual framework). Trudeau himself emphasized these latter aspects of multiculturalism. Thus, for Trudeau, "multiculturalism was more about freeing the individual from constraints than promoting the development of cultural groups."[566]

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[564] Abu-Laban/ Gabriel, *Selling Diversity*, 105, 109.

[565] Cited in McRoberts, *Misconceiving Canada*, 125.

[566] McRoberts, *Misconceiving Canada*, 126.

Perhaps equally remarkably, the policy of multiculturalism did not result in major changes to actual government programmes. It represented a significant symbolic shift in the conception of Canada as a state and society, but as Peter Li has pointed out, it essentially legitimized rather than altered existing government programmes geared towards "integrating immigrants and promoting cultural identity."[567] The largely symbolic nature of multiculturalism is further underlined by the fact that, over the last thirty years, it has never attracted substantial government funding. In 1971/72, the Department of the Secretary of State allocated roughly two million dollars to multiculturalism; by 1981/82, funding had increased to 14 million. By comparison, funding for bilingualism increased from 78 to 196 million dollars during the same period. By the early 1990s, funding levels for multiculturalism approximated 27 million, but dropped to 19 million by the end of that decade.[568] Similarly, multiculturalism was not assigned an elevated status in the federal administration. Apart from a brief interlude lasting from 1991 to 1994, there was no separate Department for multicultural affairs. Rather, the administration of multiculturalism was subsumed, first, in the Department of the Secretary of State, and after 1994, in the newly created Department of Canadian Heritage.[569]

Causes, Origins, Intentions. One factor contributing to the inception of official multiculturalism has already been alluded to, namely the resistance of many non-British, non-French groups to a dualist vision of Canada. Some third force Canadians pressured the federal government to reject the bicultural model of Canada and to espouse a multicultural model instead. However, as McRoberts suggests, this pressure alone cannot account for the emergence of official multiculturalism: third force Canadians were not only mobilized unevenly in support of multiculturalism, some groups in fact favoured the B&B Commission's dualist view of Canada.[570] Rather, pressure from third force Canadians connected with tactical considerations and with central planks in the Trudeau government's national unity agenda to prompt the 1971 announcement.

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[567] Li, "Multiculturalism Debate," 152-153.

[568] McRoberts, *Misconceiving Canada*, 128; Abu-Laban/ Gabriel, *Selling Diversity*, 115.

[569] Abu-Laban/ Gabriel, *Selling Diversity*, 110, 112.

In terms of tactical considerations, many observers have suggested that the Liberal Party introduced Canada's multiculturalism policy in an effort to attract "ethnic votes," that is, voters of non-British, non-French background.[571] More importantly, however, multiculturalism has been described as part and parcel of Trudeau's national unity strategy aimed at containing the threat of Quebec separation. Eva Mackey succinctly summarizes this aspect of official multiculturalism: "Multicultural policy extends the state recognition of multiple forms of difference, so as to undercut Québec's more threatening difference."[572] In other words, official multiculturalism grew in large part out of Trudeau's resistance to the dualist vision of Canada, and reflects an attempt to undercut the bicultural model of Canadian society.[573]

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[570] McRoberts, *Misconceiving Canada*, 123-124.

[571] See Li, "Multiculturalism Debate," 151.

[572] Mackey, *House of Difference*, 64.

[573] As Raymond Breton put it, "multiculturalism turned out to be instrumental to the Trudeau government's political agenda. Indeed, the terms of the royal commission could be interpreted as lending support to the 'two nations' view of Canada. A policy of cultural pluralism would help to undermine a notion that was seen as dangerously consistent with the Quebec independence movement"; quoted in McRoberts,

However, multiculturalism never assumed the same importance in Trudeau's national unity strategy as bilingualism, as indicated by the significant funding differentials between the two projects mentioned above. As Kenneth McRoberts has pointed out, multiculturalism was important to the national unity strategy not so much because of what it was, but rather because of what it was not. In particular, official multiculturalism displaced the possibility of official biculturalism. Thus, "[i]n terms of francophone relations with English Canada, multiculturalism was more important for precluding biculturalism and the full recognition of duality than for anything it could provide on its own."[574]

In addition to containing the threat of Quebec separation, several analysts have also argued that Canada's multiculturalism policy effectively limits the range of permissible expressions of ethnic and national diversity. While it offered some measure of recognition to ethnic and national minorities, thus challenging previously entrenched notions of Canadian identity on a symbolic level, it simultaneously confined public recognition to a limited sphere. As mentioned earlier, the federal government provided little financial support to programmes under the multiculturalism umbrella to begin with. In addition, and unlike bilingualism, multiculturalism did not profoundly affect the nature and workings of central institutions within the Canadian state. Peter Li concludes that the

> symbolic recognition of cultural diversity explains why the federal policy only provided moderate financial assistance to ethnic groups for their pursuit of cultural expression, and why no political demand was placed on key cultural, educational, and political institutions to make fundamental changes to

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Misconceiving Canada, 124.

[574] McRoberts, *Misconceiving Canada*, 127.

> incorporate multiculturalism.[575]

Thus, while Canada's multiculturalism transformed the symbolic order underpinning Canadian identity by extending formal recognition to the cultural diversity of Canadian society, it simultaneously limited the scope of that recognition. Official multiculturalism recognized diversity, but did so within a framework aimed at fostering national cohesion.[576]

Official multiculturalism and state territoriality. The introduction of official multiculturalism in 1971 illustrates a number of effects of state territoriality on recognition approaches. First, state territoriality articulated with notions of ethnic and cultural diversity in a way that constituted Canada as a territorially bounded political space characterized by multiculturalism. At the same time, that space continued to be conceived as dominated by the British and French segments of Canadian society, as evident in the policy and state support for bilingualism. While multiculturalism limited the power of British and French Canadians to enforce a bicultural vision of Canadian space, it simultaneously did little to strengthen other expressions of diversity within the territory of the Canadian state.

Second, the introduction of multiculturalism demonstrates some of the uneven effects of state territoriality on different ethnic and national groups. By virtue of being locked into a shared, geographically defined political space with the British and French "charter groups," ethnic minorities had less control than these groups over political decision-makers and the political decision-making process within Canada. While the introduction of multiculturalism certainly

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[575] Li, "Multiculturalism Debate," 152.

[576] Mackey, *House of Difference*, 66.

reflects demands and pressure by ethnic minority groups, this pressure became effective only in the context of attempts by the Canadian state to address relations between the British and French segments of Canadian society.

Third, state territoriality has had a significant impact on the relative status of ethnic and national groups. By way of illustration, official multiculturalism is frequently seen as a policy benefiting and directed at individuals and groups of non-British, non-French origin. As Jansen puts it:

> In Canada, multiculturalism is considered for the most part as a policy which placates 'other cultures' and in particular, cultures of newer immigrants coming into the country. It is not considered to apply to the 'charter groups,' the English and French, even though they are only two of the country's many cultures.[577]

Thus, Canada's multiculturalism policy implicitly affirms the majority status of British and French Canadians within Canadian territory.

Finally, state territoriality has had significant implications for the behaviours and aspirations of political actors. This is readily apparent in the context of Canada's official multiculturalism, particularly as regards the objectives pursued by the Trudeau government. To a large extent, the government's decision to implement official multiculturalism was driven by a perceived need to contain the threat of Québécois separatism. In this sense, Canada's multiculturalism policy was part and parcel of a national unity strategy that aimed at protecting the territorial integrity of the Canadian state.

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[577] Jansen, "Canadian Multiculturalism," 22.

6.4 Conclusion

As the preceding sections demonstrate, state territoriality has had a considerable impact on the conception, nature and implementation of recognition approaches. State territoriality has been articulated with notions of ethnicity and national identity in a variety of (sometimes contradictory) ways. Thus, state territoriality, in conjunction with the idea of a national homeland, contributed to the conception of Nunavut as an Inuit homeland, and of Quebec as the homeland of Francophones in North America. At the same time, it intersected with notions of ethnic diversity in a way that produced Canadian territory as a political space characterized by multiculturalism. State territoriality also influenced the production of ethnic and national groups. This is especially evident in the creation of Nunavut, since the boundaries of Canada's third territory cut across ethnic and national settlement patterns. Doing so, they both exclude a significant number of Inuit from the Inuit homeland of Nunavut, and include a considerable number of non-Inuit in said homeland.

Examining the Clarity Act, the creation of Nunavut, and the emergence of official multiculturalism, this chapter also underlined the substantial impact of state territoriality on ethnic and national power relations. For instance, the creation of Nunavut and the implementation of multiculturalism impose restrictions on the capacity of dominant ethnic and national groups to exercise control over minority groups. However, state territoriality contributes to the emergence of a claims hierarchy between different ethnic and national groups. In essence, it enables certain groups to lay claim to a comprehensive range of self-government options, including secession. State territoriality simultaneously prevents other groups, who cannot exercise effective control over a given territorial space, from accessing the same range of options.

Finally, state territoriality has had a significant impact on the actions and aspirations of socio-political actors. For example, a close examination of the Clarity Act suggests that it may strengthen the federal government's ability to effectively protect the territorial integrity of the Canadian state, despite (or precisely because of) the fact that it explicitly recognizes a provincial right to pursue secession from Canada. Considerations of territorial integrity also informed Canadian state policies on the creation of Nunavut: the Canadian state acquiesced to the establishment of an Inuit territory in the central and eastern Arctic at least in part to reinforce Canadian sovereignty in the area.

7.

CONCLUSION

This chapter will begin by providing a brief summary of the argumentation presented in the preceding chapters. Taking this summary as a point of departure, it will then briefly identify a number of areas for future research on the links between state territoriality on one hand, and ethnic and national diversity on the other. It will examine two of those research areas in some depth - specifically, the potential implications of state territoriality for fostering rather than containing ethnic and national conflict, and possible alternatives to state territoriality in the context of the early twenty-first century. In discussing these two areas or other areas for future research, this chapter will not seek to provide a comprehensive analysis. Rather, it will aim to provide a brief sketch of some of the issues to be considered, and chart a number of arguments that may be brought to bear on these issues.

7.1 Challenging the territorial imagination: the argument

The preceding chapters sought to address two principal questions: first, what is the view of state territoriality in the extant literature on state policies towards ethnic and national diversity, and, second, what impact does state territoriality have on those policies? Chapter 1 ("Introduction") outlined these two questions in some detail and raised the basic themes that informed the analysis provided in the rest of the dissertation: the continuing importance of territoriality for state and society, issues surrounding the idea of the nation-state, and the implications of state territoriality for state responses to ethnic and national diversity (in particular, its function as a mechanism of containment).

Chapter 2 ("Literature Review") examined some of the existing literature on state responses to ethnic, cultural and national diversity by reviewing a number of leading contributors to that literature. The selection of authors was geared towards covering a variety of fields in the discipline, providing an international sample of literature, and spanning normative and empirical perspectives. Chapter 2 raised two main points. First, it suggested that state responses to ethnic and national diversity fall into three broad categories: control, neutrality, and recognition. Chapter 2 further argued that the existing literature on state policies towards ethnic and national diversity has neglected the impact of state territoriality on the conception and implementation of those policies.

Chapter 3 ("Ethnic Diversity and the Territorial Imagination") is the theoretical centrepiece of the dissertation. Addressing the silence on issues of territoriality noted in Chapter 2, it defined the concept of state territoriality and demonstrated why and in what ways this concept, as a mode of political authority, affects state policies on ethnic and national diversity. In particular, it took issue with what I call the "territorial imagination" - a number of interrelated assumptions that underpin the extant literature on responses to ethnic, cultural and national diversity. Drawing on political geography, discourse analysis and neo-institutionalism, Chapter 3 argued that each of these assumptions is profoundly flawed.

Chapters 4 through 6 focussed on criticizing one specific aspect of the territorial imagination: the assumption that state territoriality is neutral. Each of these chapters examined three case studies drawn from Canadian history; in each chapter, one of these case studies concerned state policies towards French Canadians, the second explored state policies towards Canada's Aboriginal peoples, and the third addressed state policies towards third force (non-British, non-French, non-Indigenous) Canadians.

Chapter 4 ("Control") explored state policies that aimed at excluding, eradicating, or marginalizing certain ethnic, cultural and national groups and identities while privileging others. In doing so, it highlighted the significance of state territoriality for the conceptualization and implementation of these policies. The cases examined in this chapter are the Manitoba Schools Question, the establishment of residential schools for indigenous children, and the treatment of Japanese Canadians during World War II.

Chapter 5 ("Neutrality") examined state policies on ethnic and national diversity that, in contrast to control approaches, did not intentionally seek to marginalize or privilege certain groups and identities, but instead aimed at relegating ethnic and diversity to the private sphere and constructing the public sphere as neutral. In order to illustrate the significance of state territoriality for the character of policies that fall within the neutrality category, this chapter examined the conscription crisis during World War I, the 1969 White Paper on state policy towards Indigenous peoples, and the emergence of the "points system" in Canadian immigration policy in the late 1960s.

Chapter 6 ("Recognition") explored state policies that did not conceive public space as neutral, but sought to accommodate and give institutional expression to ethnic and national diversity. Examining issues surrounding the Quebec Secession Reference and the Clarity Act, the establishment of Nunavut, and the development of multiculturalism, this chapter pointed to the effects of and limits imposed by state territoriality in each of these cases.

In sum, the preceding chapters provided the following answers to the two questions driving the dissertation: first, the literature on state policies towards ethnic and national diversity has largely neglected issues of space, and of state territoriality in particular. Mirroring the dominant practice in most of the social sciences (with the obvious exception of geography), this literature tends to treat modern notions of state territoriality - encapsulated in the view of the nation-state as a container of society - as an unproblematic given. This reading of state territoriality rests on a set of interrelated, implicit assumptions that together form the "territorial imagination." In essence, the territorial imagination presents state territoriality as natural, normal, neutral and immutable - that is, it erases the historical contingency of state territoriality, portrays it as the only (or only feasible) model of political authority, disregards the link between state territoriality and social power relations, and treats state territoriality as historically fixed and unchanging.

In response to the second question, this dissertation argued that the territorial imagination is profoundly flawed: state territoriality, as a form of political authority, is socially constructed and historically contingent; it is but one way of organizing political authority; it has appreciable effects on social power relations; and far from being unchanging, it has undergone significant changes over the last few centuries. State territoriality has shaped state policies on ethnic and national policies in a variety ways: it profoundly affected the production of political space, the construction of ethnic and national groups, the status, power and resources of different groups, as well as political behaviour, opportunities, and aspirations.

At this point, a disclaimer may be in order: although the implications of state territoriality are often negative for ethnic and national minorities, this is certainly not always the case. For example, state territoriality can, in some instances, further the integration of diverse groups by engaging them in a common political space. In other cases, state territoriality can function as a mechanism to restrain the power of dominant ethnic and national groups over other groups (see Chapter 6).

The argument, then, is not that state territoriality is necessarily objectionable in all circumstances. The implications of state territoriality are too complex and contradictory to allow for such broad generalizations: as th[illegible]vious chapters have shown, the impact of state territoriality on ethnic and national groups depends on the concrete socio-historical context. Rather, the argument is that state territoriality as a means of delineating political space has had, and continues to have, appreciable power effects - power effects that are evident as much in state policies on ethnic and national diversity as in other areas.

7.2 Mapping the territorial imagination

As mentioned in the previous section, this dissertation focussed on criticizing one of the assumptions underpinning the territorial imagination - specifically, the idea that state territoriality is neutral. By way of supplementing the analysis of linkages between state territoriality and state policies on ethnic and national diversity provided in the preceding chapters, future research could fruitfully map the other three assumptions underpinning the territorial imagination in greater detail. Additionally, such an analysis could contribute to a broader theorization of power by examining how and why state territoriality was produced as natural, normal and immutable. An exploration of the mechanisms that produced the territorial imagination could draw on a variety or sources that bear on the relationship between power, knowledge, territoriality and national diversity, such as the literature on "banal" (re)productions of the nation, or critical cartography.[578]

Regarding the role of cartography in the entrenchment of the territorial imagination, Benedict Anderson's classic analysis of the origins of nationalism, *Imagined Communities*, can provide a potential point of departure within the literature on nationalism and ethnicity: Anderson offers a brief discussion of the role that the map-as-logo plays in nation-building processes, and points to historical attempts by European colonial powers to legitimize their rule by means of cartography.[579] Anderson argues that they

> were in the business, especially vis-a-vis other Europeans, of reconstructing the property-history of their new possessions. Hence the appearance, late in the nineteenth century especially, of 'historical maps,' designed to demonstrate, in the new cartographic discourse, the antiquity of specific, tightly bounded territorial units.[580]

7.3 Secession

The preceding chapters (especially Chapter 6) raised a number of questions about secession. Analyzing the theory and politics of secession presents a fruitful angle for further examination of the relationship between state territoriality and ethnic and national diversity. In particular, exploring the normative principles underpinning secession, the ways in which existing states as well as groups seeking to secede from existing states justify claims to territory, and the relationship between secessionist ambitions and ethnic and national diversity would yield valuable insights into this relationship.

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[578] See, *inter alia*, Michael Billig, *Banal Nationalism* (London: Sage, 1995); J.B. Harley, "Maps, knowledge, and power," in Denis Cosgrove and Stephen Daniels, eds., *The iconography of landscape: Essays on the symbolic representation, design and use of past environments* (Cambridge: Cambridge University Press, 1988), 277-312; Denis Wood, *The Power of Maps* (New York: Guilford, 1992); Jeremy Black, *Maps and Politics* (Chicago: University of Chicago Press, 1997).

[579] Anderson, *Imagined Communities*, 174-178.

[580] Anderson, *Imagined Communities*, 174-175.

The philosophy of secession is a relatively recent field, dating back at most to the early 1980s. The last two decades have, nonetheless, witnessed the emergence of rival paradigms for the justification of separatism: chiefly, these are normative accounts based on democracy and remedial justice. As suggested in Chapter 6, the principles of secession that implicitly underpin the Supreme Court of Canada's Secession Reference, as well as the federal Clarity Act, diverge in a number of ways from both of these accounts. In particular, these principles suggest that secession is legitimate only if the existing state consents. This "consent" account of secession raises a number of normative and practical concerns that invite further investigation, for example regarding the precise nature of the limits that can legitimately be imposed on the democratic right to self-determination on the part of a seceding party. More generally, all three accounts of secession clearly have important implications for the relationship between states and ethnic and national minorities that may potentially engage in secessionist projects.

The justificatory strategies used to support claims to concrete territories, both on the part of existing states and groups seeking to secede, present a related avenue of inquiry. In particular, one might ask how political actors seeking to secede from an existing state ground the claim that they do not simply have a right to exit the existing polity, but to take part of its territory with them. Conversely, one might examine how existing states contest the legitimacy of those claims, and how they ground their own claims to the territory they control. How do secessionist movements and existing states conceptualize and respond to rival claims to the same territory? How do they conceive of the territory they claim - do they base it on pre-existing jurisdictions, and if so, do they entertain the possibility of boundary changes?

Finally, to the extent that secessionist projects are based on a particular vision of community and shared identity, do they allow room for a recognition of ethnic and national diversity? For example, how does Western Canadian separatism conceive of ethnic and national diversity and the public accommodation of difference? Given the skepticism of some separatist movements in the Canadian West towards federal policies such as bilingualism, can they, at least in part, be understood as a rejection of attempts at political recognition of Canada's ethnic, national, linguistic, and racial diversity?

7.4 State territoriality as a motor of conflict?

Throughout the preceding chapters, state territoriality has been analyzed with a view to its role as a mechanism of containment. In this role, state territoriality promotes the stability of existing states. However, rather than necessarily fostering stability, state territoriality can, in some cases, also undermine it. For example, federalism is often portrayed as an attractive strategy for the accommodation of national self-government within a state. However, as Will Kymlicka notes, in cases such as Canada, federalism has actually become a motor of national conflict in itself.[581]

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[581] Will Kymlicka, *Finding Our Way: Rethinking Ethnocultural Relations in Canada* (Don Mills: Oxford University Press, 1998), 136.

While Kymlicka locates the problem in the irreconcilable ***differences*** between competing conceptions of federalism,[582] I would argue that their fundamental ***similarities*** also contribute to the seeming intractability of Anglo-Canadian/ Québécois conflict. Specifically, federalism's basis in territoriality, while allowing it to accommodate societal diversity in some ways, simultaneously limits its capacity to do so in others. By way of supporting this argument, this section will briefly outline the roots of Canadian conflicts over asymmetrical, multi-nation and symmetrical, territorial federalism in diverging visions of Canada as a political community. Then, it will show that the conflicting conceptions of federalism rest on a common conception of territoriality, and that the latter has implications for national conflict in Canada.

Federalism and political community in Canada. Over the last three decades, issues surrounding the accommodation of ethnic, cultural, national and racial diversity have attracted increasing attention within academia. For example, a rich literature on multiculturalism emerged in political philosophy during the 1980s and 1990s,[583] and there is a growing body of work on multinational polities and, in particular, the concepts and applications of multinational democracy.[584] Given Canada's multi-ethnic, multi-national, multi-lingual and multi-racial character, it is no surprise that much of this literature either emerged in Canada or pays special attention to the Canadian case: the heterogeneity of Canadian society has been a driving force behind much of its recent political and constitutional history, and the source of many intractable conflicts.

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[582] Kymlicka, *Finding Our Way*, 141.

[583] For example, Kymlicka, *Liberalism, Community and Culture*; Taylor et al., *Multiculturalism*; Tully, *Strange multiplicity*.

[584] See, *inter alia*, Don MacIver, ed., *The Politics of Multinational States* (Houndmills: Macmillan, 1999); Michael Keating, *Plurinational Democracy: Stateless Nations in a Post-Sovereignty Era* (Oxford: Oxford University Press, 2001); Alain-G. Gagnon and James Tully, eds., *Multinational Democracies* (Cambridge: Cambridge University Press, 2001); Alain-G. Gagnon, Montserrat Guibernau and François Rocher, eds., *Conditions of Diversity in Multinational Democracies* (Montreal/Kingston: McGill-Queen's University Press, 2004).

Canadians have witnessed five rounds of "mega-constitutional" politics in three decades.[585] Only one of these (the 1980/82 patriation process) resulted in actual constitutional changes - many of which have underlined rather than resolved fundamental conflicts in Canadian society and politics. Specifically, the Constitution Act, 1982, brought about without the consent of Quebec's provincial government, failed to meet Quebec's demands for recognition as a distinct society and a corresponding devolution of powers to the province of Quebec. In essence, Quebec's demands (which had been voiced on earlier occasions as well and were reiterated during the two following rounds of constitutional negotiations, Meech Lake and Charlottetown) amounted to the formalization of an asymmetrical federalism, where the province of Quebec would enjoy greater powers than the other provinces. The demand for constitutionally entrenched unequal provincial powers or status was seen as unacceptable by the rest of Canada, which strongly favoured provincial equality and symmetrical federalism.

There is a widely held belief in English-speaking Canada that equality of citizens requires a corresponding equality of provinces: all provinces are and ought to be treated as equal participants in Confederation and should, therefore, enjoy both equal status and equal powers. On this view, provincial inequality has been thought to violate fundamental liberal democratic precepts.[586] The demand for equal provincial status is perhaps most visibly expressed in Western Canadian demands for a Triple E Senate;[587] this would entrench numerically equal representation of all provinces in a powerful second chamber of Parliament, regardless of population. A second demand - for equal provincial powers - has been apparent in resistance from provincial governments and Canadians outside Quebec to the constitutional recognition of Quebec as a distinct society, and to the idea of devolving powers to Quebec that would not be available to the other provinces. Thus, while the idea of asymmetrical federalism has enjoyed the support of successive PQ and PLQ governments in Quebec, the model of federalism supported by Canada outside Quebec is a decidedly symmetric one.[588]

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[585] Peter Russell, *Constitutional Odyssey: Can Canadians Become A Sovereign People?* Second edition (Toronto: University of Toronto Press, 1993).

General decentralization has been proposed to reconcile Quebec's demands for increased powers of self-government with English-Canada's desire to maintain provincial equality. However, for

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[586] See Donald G. Lenihan, Gordon Robertson and Roger Tassé, *Canada: Reclaiming the Middle Ground* (Montreal: Institute for Research on Public Policy, 1994) for a trenchant critique of this assumption. More broadly, see also Alan Cairns's discussion of the conflicts between three "equalities" that underlie much political debate in Canada (the equality of citizens, equality of provinces, and equality of nations) in his essay "Constitutional Change and the Three Equalities," in Alan C. Cairns, *Reconfigurations: Canadian Citizenship and Constitutional Change* (Toronto: McClelland and Stewart, 1995), 216-237.

[587] That is, a Senate that is elected by popular vote, based on equal representation of the provinces, and plays a substantial (effective) role in the legislative process.

[588] Despite widespread opposition to asymmetrical federalism in English-speaking Canada, the concept has attracted considerable attention in Canadian academe. See, *inter alia*, Philip Resnick, *Thinking English Canada* (Toronto: Stoddart, 1994); and several contributions in Kenneth McRoberts and Patrick Monahan, eds., *The Charlottetown Accord, the Referendum, and the Future of Canada* (Toronto: University of Toronto Press, 1993).

> many Québec nationalists [...], this proposal misses the point. The demand for special status is a demand not just for this or that additional power, but also for *national recognition*. [...] Québec nationalists want asymmetry for its own sake, as a symbolic recognition that Québec alone is a nationality-based unit within Canada.[589]

General decentralization, by virtue of treating Quebec as a province like any other, cannot accommodate the view that Quebec, as the homeland of the Québécois nation, needs to be recognized as occupying a different position than the other provinces, which to Quebec nationalists are simply regional sub-divisions of Anglophone Canada. As Philip Resnick put it, Quebec nationalists "want to see Québec recognized as a nation, not a mere province; this very symbolic demand cannot be finessed through some decentralizing formula applied to all provinces."[590]

Ultimately, then, the symmetrical and asymmetrical models of federalism are rooted in diametrically opposed conceptions of Canada as a political community. Canadians outside Quebec tend to view Canada as a single nation; from this perspective, all provinces represent same-order territorial sub-divisions of a single Canadian nation and should therefore enjoy equal status and powers. To borrow a term from Philip Resnick, English-Canadians predominantly subscribe to *territorial* federalism, a view that perceives all ten provinces as mere regional sub-units of a unified Canadian nation.[591]

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[589] Will Kymlicka, *Finding Our Way*, 143.

[590] Philip Resnick, "Toward a Multinational Federalism: Asymmetrical and Confederal Alternatives," in F. Leslie Seidle, ed., *Seeking a New Canadian Partnership: Asymmetrical and Confederal Options* (Montreal: Institute for Research on Public Policy, 1994), 71-89, at 77.

[591] Resnick, "Multinational Federalism," 71.

In contrast, most Québécois (and many members of Aboriginal peoples) perceive Canada as a multi-nation community, and accordingly adhere to what Resnick calls a *multi-nation* view of federalism - that is, federalism as a means for accommodating differences among national communities. On this view, there is a substantial difference between Quebec and the nine other provinces: while the latter represent mere territorial sub-divisions of one of the national communities that is a partner to Canada's national compact (English Canada), Quebec, by virtue of being the only Francophone province, is the sole representative of another partner in that compact, and can thus justifiably lay claim to greater powers than the other nine provinces.[illegible]

It is precisely on the question of asymmetry that multi-nation and territorial views of Canadian federalism "become not just distinct but incompatible."[592] The conflicting views of Canada's nature create an impasse which, according to Kymlicka, can only be overcome through three strategies:[593]

- "Papering over" the crucial differences between conceptions of Canadian nationhood. This strategy has been employed by the federal government in recent decades and consists of two main elements: a refusal to opt in favour of either the single-nation or multi-nation-view of Canada, and a simultaneous emphasis on Canada as a community of shared values. Kymlicka contends that this strategy is doomed to fail, because ambiguity can satisfy neither the proponents of a single-nation view of Canada nor advocates of a multi-nation view, and because the crucial distinction is not one between different values, but between different identities.

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[592] Kymlicka, *Finding Our Way*, 141.

[593] For the following, see Kymlicka, *Finding Our Way*, 141-166.

- Accepting the single-nation view and territorial federalism of Canada espoused by most English-Canadians. Given the deeply entrenched national identities among Québécois and many Aboriginal peoples, this is not a feasible option.
- Convincing English-speaking Canadians to accept a multi-nation view of Canada and Canadian federalism (which would provide a basis for differential status not only for Quebec, but also for Aboriginal peoples). Given that the first two strategies have been either tried and found wanting, or are unacceptable to proponents of minority nationalisms, Kymlicka describes this third option as the only feasible one.

Federalism and territoriality. While I agree that "papering over the differences" is not a viable long-term strategy, it is interesting to note that all of these strategies (which dominate political discussion in Canada) operate within the framework of state territoriality. This is readily apparent regarding asymmetrical (multi-nation) vs. symmetrical (territorial) federalism: concepts of federalism operate within the logic of state territoriality, since they replicate the model of political authority characteristic of the modern state on a sub-state level. I would argue that the incompatibility of multi-nation and territorial federalisms owes as much to their similarities as to their differences. To be more precise, both models of federalism are rooted in state territoriality: they speak, as it were, the same language, and make claims about the same objects (sub-national units of government).

Federalism represents a variation on the theme of state territoriality in the sense that it embodies a system of divided and partial authority, that is, sovereignty over the same territory is exercised by more than one government. It is this division of authority that makes federalism attractive as a means of accommodating demands for self-government on the part of national minorities, because it offers the possibility of granting self-government powers to national minorities in areas and territories where they form a majority. Thus, the desire of French Canadians for some form of self-government was one of the major reasons why Canada was established as a federal system rather than as a unitary state (the latter having been the preference of John A. Macdonald, among others). By the same token, self-government for some of Canada's Aboriginal peoples was one of the reasons behind the incorporation of Nunavut as a new territory in 1999.

Thus, federalism introduces a degree of flexibility into the modern state that facilitates limited self-government for internal nations or other groups as long as they have a clear spatial component.[594] At the same time, federalism follows the logic of state territoriality (all self-governing units are identified and delineated by territory), and this imposes clear limits on its capacity to accommodate minority nations. This is perhaps most obviously the case when settlement patterns are such that it is difficult or impossible to demarcate geographical areas in a way that ensures that minority nations form a clear majority in one or more of them.

Federalism, when used to accommodate minority nations, is also vulnerable to population movements that may upset the ethnic or national composition of any given sub-national unit of government. In addition, federalism, by cutting across settlement patterns, is also likely to replicate majority/minority situations, albeit on a smaller scale and with inverted roles for different population groups (for example, Anglophone Canadians are the majority of the population in Canada as a whole, but a sizeable minority in Quebec).

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[594] The same is true of related mechanisms, of course, such as regional autonomy - as institutionalized in Spain, the UK, Finland, and Trinidad and Tobago, among others.

Regarding more specifically the conflict between multi-nation and single-nation views of Canada, federalism can provide no viable answers: federalism's only solution is, schematically speaking, to divide the country into provinces and then to assign them either the exact same powers and status (symmetrical federalism) or differential powers and status (asymmetrical federalism). As outlined above, these solutions are incompatible, and neither of them is acceptable to all Canadians. The reason for their incompatibility is not simply the fact that they differ in terms of which powers and status to assign to the provinces, but also that they do share, in part, the same territorial logic, that is, the division of Canada into mutually exclusive territories.

7.5 Alternatives to state territoriality

If state territoriality is not a natural, normal, neutral or immutable way of organizing political authority, there is a need to explore two follow-up questions: first, what are the alternatives? Put differently, what principles, other than state territoriality, could political authority be based on, and what are the institutional forms that non-territorial authority could conceivably take? Second, are these alternatives acceptable? In particular, are they normatively defensible (or even desirable), and is their implementation politically feasible?

Political authority beyond the territorial state. In many ways, accounts of cosmopolitan democracy can be read as partial answers to the first question, in the sense that they offer sketches of a post-statist world order.[595] There also is a growing literature on the emergence of private authority within the international sphere.[596] In addition, several scholars following in the footsteps of Hedley Bull have argued that we may potentially be witnessing the genesis of a neo-medieval world order characterized by partial and overlapping political authority.[597] Last but not least, some political philosophers have begun to question the Bodin-Hobbes model of absolute and hierarchical sovereignty embodied by the contemporary state, proposing instead a reexamination of an alternative political tradition exemplified by Althusian models of shared authority. As Thomas Hueglin, an exponent of this last tendency, has summed up some of these developments:

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[595] See, *inter alia*, David Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Cambridge: Polity, 1995); Daniele Archibugi, ed., *Debating Cosmopolitics* (London/ New York: Verso, 2003).

> A search has begun for alternative models of political and social organization. In theory, it is above all characterized by a post-statist and postmodern 'incredulity toward metanarratives' of the kind embedded in universalist assumptions about the modern state and society. In practice, it aims at the construction of pluralized models of organized social life, a 'politics of diversity' including those whom the distributive rationalization of modern political life has left stranded at the margins of disempowerment or outright oppression, and embedded in an 'expanding framework of democratic institutions' beyond the state that can be described as a 'cosmopolitan' or 'federal' model of democracy.[598]

The issues raised by all of these approaches, and the socio-political developments they address, are of central interest in exploring the possibility of non-territorial modes of governance for the twenty-first century.

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[596] See, *inter alia*, Rodney Bruce Hall and Thomas J. Biersteker, eds., *The Emergence of Private Authority in Global Governance*, Cambridge Studies in International Relations 85 (Cambridge: Cambridge University Press, 2003).

[597] See, *inter alia*, James Anderson, "The shifting stage of politics: new medieval and postmodern territorialities?" *Environment and Planning D: Society and Space* 14:2 (1996), 133-153; James Anderson and James Goodman, "Transnationalism, 'Postmodern' Territorialities and Democracy in the European Union," in Kevin J. Brehony and Naz Rassool, eds., *Nationalisms Old and New* (Houndmills: Macmillan, 1999), 17-34.

[598] Thomas Hueglin, *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism* (Waterloo, ON: Wilfried Laurier University Press, 1999), 7-8.

One "alternative model of political and social organization" that has attracted increasing attention over the last ten years is that of national cultural autonomy proposed at the turn of the twentieth century by Renner and Bauer.[599] The model is outlined in some detail in Chapter 3.5. The remainder of this section will briefly reiterate the main elements of this model by way of an example for non-territorial structures of political authority. It will then address the second question - whether non-territorial forms of political authority are acceptable - by briefly exploring the feasibility of national cultural autonomy in the Canadian context.

Renner, Bauer and national cultural autonomy. The model of national cultural autonomy developed by Karl Renner and Otto Bauer is based on the observation that territorial models of national self-government faces a number of problems, such as the likely presence of substantial ethnocultural minorities within a "national" territory, as well as the instability of national settlement patterns and boundaries. Renner and Bauer suggested that national self-government instead be based in part on a model of national cultural autonomy. In this model, nations would assume the status of juridical entities; individuals would be free to choose which nation they wished to belong to. Nations would be responsible for matters such as education, culture and providing their members with assistance in courts operating in a language other than that of the nation in question. Nations would have the ability to tax their members in order to fund those functions. Any government functions with no effect on cultural matters would remain with the authorities of the territorial state (although, as pointed out earlier, Bauer proposed that the nations would take control of the state apparatus as well).

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[599] See, *inter alia*, Nimni, *National Cultural Autonomy*.

Translating the Renner/ Bauer scheme of national cultural autonomy into a contemporary Canadian context could potentially accommodate both multi-nation and single-nation views of Canada without "papering over" the differences between them. All provinces could be assigned the same powers and status, while Canada's multi-nation character could be recognized by devolving certain powers to national corporations representing, for instance, Francophone Québécois or specific Aboriginal peoples.[600] National cultural autonomy effectively offers a model of national self-government that escapes the limitations of federalism and the intractable conflict between multi-national and territorial models of Canadian federalism. It could thus potentially represent a first step towards reconciling the multi-nation and single-nation views of Canada - something that multi-nation and territorial models of federalism cannot accomplish, since they are caught in a territorial logic that frames them as diametrically opposed options.

This is not to say that national cultural autonomy is a panacea for conflicts that may arise from ethnic and national recognition claims. Nor is the intention here to suggest that the Renner/ Bauer model is unproblematical. In fact, it is clear that the introduction of national cultural autonomy into Canada would be faced with a number of difficulties, both on a conceptual and practical level. Regarding the former, national cultural autonomy was developed in the context of an anti-liberal, anti-democratic multinational Empire. It was further developed in a context where nations were assumed to be relatively homogenous, ethnically and linguistically defined groups. Moreover, nations were perceived as clearly bounded, in the sense that individuals were seen as members either of one nation or another, but not as members of several nations at the same time. Attempts at translating this model into the contemporary Canadian context - a context marked by liberal democracy, ethnic and national diversity, and a significant degree of hybridity - would require some conceptual groundwork concerning the possibility of adapting national cultural autonomy for the context of early twenty-first century liberal democracies.

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[600] Arrangements similar in nature to national cultural autonomy could arguably be used as a response to some concerns of other communities as well, including Acadiens or other Francophones outside Quebec.

However, it should be pointed out that the principles underlying the model of national cultural autonomy are not necessarily anti-democratic and anti-liberal themselves. For instance, as mentioned above, Renner and Bauer emphasized individual choice in determining national membership. Perhaps more importantly, whatever the differences between societal contexts, two of the basic features of national cultural autonomy as conceived by Renner and Bauer - the non-territorial conception of political authority, and the combination of non-territorial authority with territorial authority - are both eminently transportable and conceptually fruitful. They are transportable, not only across societal contexts, but also across different social groups. Thus, while Renner and Bauer devised national cultural autonomy as a response to ethno-national self-government claims, the logic of non-territorial principles of political authority is not necessarily wedded to an ethnic conception of nations - or to nations in general.

As regards practical considerations, national cultural autonomy would, at least in the short term, likely meet considerable resistance among English-speaking Canadians, Québécois and Aboriginal peoples. Many English-speaking Canadians would object to the idea of non-territorial self-government as the entrenchment of "special interests." Many Québécois would see it as irrelevant to their demands, which ultimately aim at constructing Quebec as their nation-state (either inside or outside Canada). Members of Aboriginal peoples may object to non-territorial self-government out of a concern that it might undermine their position in future land claims negotiations and fails to recognize either the specificity of their position in relation to the (colonial) Canadian state, or the spiritual and cultural link between particular Aboriginal peoples and their lands.

Notwithstanding these difficulties, national cultural autonomy is worth considering for two reasons: first, it may broaden the terms of the constitutional debate about national recognition. In particular, it could facilitate a systematic debate on national self-government models that go beyond the strict confines of state territoriality. In this context, it is worth keeping in mind that Renner and Bauer did not suggest to completely replace territorial forms of authority with non-territorial forms; rather, they advocated a combination of the two. If non-territorial and territorial models of political authority are seen as two supplementary options, this could greatly enhance the conceptual toolbox in devising solutions to national self-government claims.

Relatedly, national cultural autonomy may, despite the skepticism it would likely encounter in the short term, offer a viable response to some aspects of Canada's national conflicts in the long run (at the very least, it seems no less viable than the three options discussed by Kymlicka, which have dominated political debate on these issues). The basic principles underlying national cultural autonomy are sufficiently flexible to allow concrete institutional arrangements to be structured in ways that meet different concerns, objectives and needs. For example, national cultural autonomy may offer the possibility of extending some form of self-government to Aboriginal peoples without a clear land base, or to members of Aboriginal peoples residing in urban areas. Consequently, it may be a useful approach to thinking about the accommodation of concrete demands for national recognition and self-government, and may offer Canada an alternative beyond the multi-nation vs. single nation impasse.

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